1869-022 SOUTHAMPTON COUNTY CHANCERY PAPERS

CLEMENTS et al VS. GRIZZARD and Wife

8/1869

other surnames: Smith

Clements vs Ala
et al
Bill, answer
& documents
Exhibits & Depositions

1868 January Decree as filed &c
#
1869 March Rep't.
" Aug. Rep't. confirmed

To the Worshipful county court of Southampton in Chancery

Humbly complaining your orator W. J. T. Clements, Mary J Smith who before marriage was Clements Lucy A Clements, and Virginia A Clements, shew unto your worships that in the year 1822 — Richard P Clements of Southampton County departed this life having first duly made and published his last will and testament which was admitted to probate in the county court of Southampton in the year 1828 a certified copy of which is herewith filed marked A and prayed to be taken as a part of this bill That the said Richd P Clements who was the grandfather of your orators by the said will gave to Washington Clements their father the use of the plantation he bought of George Witcham also the use of the plantation he bought called Jones for his life and at his death to be equally divided between the said Washington Clements children in fee simple except his son Richd P Clements who was otherwise specially provided for in the said will, Your Orators state further that Washington Clements by virtue of the said will took possession of the two named tracts of land containing one 300 acres of land and the other 200 acres and held the same until his death which occured in the latter part of the year 1867 and that he left besides his son Richard P Clements who has no share in this land the following children among whom it is to be divided to wit W. J. T. Clements Virginia A Clements Harriet M Jiggard who

has married Richard L Gizzard and who before marriage was Clements, Mary I Smith who before marriage was Clements and Lucy A Clements your orator state that Mary I Smith has been absent from the county a long time and has not been heard from for twenty years, also that Lucy A Clements has been absent from the county and has not been heard from in twelve years and a presumption of the death of both has arisen, but they have both been made parties plaintiff pro forma and they desire their shares of the land may be set aside to them and if after reasonable diligent enquiry they cannot be found then to sell it for division among their heirs at law Your orator state further that since their father Washington Clements death it is necessary that a division of the said lands should be made among the children according to the will Under consideration whereof and inasmuch as your Orator are without relief at law and only entitled to relief in a court of equity where such matters are peculiarly cognizable they, therefore pray that Richd L Gizzard and Hannah M. Gizzard his wife may be made parties defendant to this bill and compel them as full and perfect answer make to the allegations therein contained as if they had been thereunto more fully and specially interrogated, That the court would decree a partition of the land named above according to the rights of the parties and grant such other and general relief the premises considered as equity may dictate and the nature of this case may require and as in duty bound your orator will ever pray &c

Shands p. q.

The joint answer of Richd L Gizzard and Hannah M Gizzard his wife to a bill in chancery in the county court of Southampton by H. J. T. Clements & others as them

These defendants for answer to the said bill or as much thereof as they are advised it is material for them to answer, answering say that they too desire the lands named in the bill shall be divided according to the rights of the parties, and having fully answered pray them to be dismissed with their costs &c

Shands for defts

Clements vals
as 3 Dems
Jaggard's wife

to be entered

S Paine

1868 January 6th.

Clements vals
vs 3 Decm
Grizzard & wife

By consent of parties this cause came on this day to be heard on the Plaintiffs bill, answer of the defendants and general replication thereto exhibit filed and was argued by counsel on the hearing whereof the court doth adjudge, order, and decree that James E Peters, Robert Rowland and Fortunatus Dunn who are hereby appointed special commissioners for that purpose shall after reasonable notice to the parties interested proceed to divide the two tracts of land lying in Southampton county one containing 300 and the other 200 acres of land whereof Washington Clements died seized and possessed into five equal shares having regard to quality and quantity and employing for that purpose if necessary the services of a competent surveyor and allot one share to W. J. T. Clements, one share to Richard L Grizzard and Harriet M Grizzard his wife, one share to Virginia A Clements, one share to Mary J Smith and one share to Lucy A Clements, and the said commissioners are further directed to allot the shares of Mary J Smith and Lucy A Clements adjoining each other if practicable, and the court doth further adjudge order and decree that if in the opinion of the said commissioners the said lands cannot be divided or partition made they report the fact to the court, and if partition is made then they report their proceedings to court in order to a further decree, and the court doth

further adjudge order and decree that all the
parties interested pay their equal proportion
of the costs of this suit

Clements

v. Copy Deed

Grazzard Wilcox

Southampton January Court 1868.

W. G. T. Clements; Mary J. Smith who before marriage was Clements; Lucy A. Clements, and Virginia A Clements Plffs

against } In Chancery

Richard L. Grizzard & Harriet M Grizzard his wife Defts

By consent of parties this cause came on this day to be heard on the plaintiffs bill answer of the defendants and general replication thereto, exhibit filed and was argued by Counsel on the hearing whereof the Court doth adjudge, order and decree that James E. Peters, Robert Rowland and Fortunatus Dunn who are hereby appointed Special Commissioners for that purpose shall after reasonable notice to the parties interested proceed to divide the two tracts of land lying in Southampton County, one containing 300 and the other 200 acres of land whereof Washington Clements died seized and possessed into five equal shares having regard to quality and quantity and employing for that purpose if necessary the services of a competent Surveyor and allot one share to W. G. T. Clements one share to Richard L Grizzard and Harriet M Grizzard his wife one share to Virginia A Clements - one share to Mary J Smith and one share to Lucy A Clements. and the said Commissioners are further directed to allot the share of Mary J. Smith and Lucy A Clements adjoining each other if practicable. And this Court doth further adjudge, order & decree that if in the opinion of the said Commissioners the said lands cannot be divided or partition made they report the fact to the Court, and if partition is made then they report their proceedings to Court in order to a further decree and the Court doth further adjudge, order and decree that all the parties interested pay their equal proportion of the costs of this suit.

A Copy

Teste. D R Edwards Clk

Clements

vs 3 Rept.

Grizzard & Wife

1869 March Ct.

Comr's Report
for the division
of Clements
Land

1869 March Term

To the County Court of Southampton

In Obedience to a decree ipsued January Term 1868.
by James E. Peters, Robert Rowland & Fortunatus Dunn Comrs.
appointed for that purpose have met and divided the Two
Tracts of Land Mentioned in Said decree. and having regard to
quality and quantity doth allot to Wm G. G. Clements One Lot of
Land with the improvements Supposed to Contain Sixty Acres.
by the Same
more or less and Supposed to be worth Two Hundred Dollars.
The line Commencing at a large pine known as the County line
between Sussex & Southampton and running Nearly a South to Sweet gum
Standing in a Swamp emptying in Parkers Old Mill Pond a dividing
line between Jeptha P. Hailes and Said Clements Tract and thence
down Said Swamp to Wm G. G. Clements line and thence along Said line
to the road on Walter Applewhite's line and then up the road to the
beginning.

2nd. To allot to Richard L. Grizzard in right of his wife Harriet
M. Grizzard, formerly Clements, one Share Supposed to Contain One
Hundred and Ten Acres by the Same more or less and Supposed to
be worth Two Hundred Dollars. Commencing at a large pine
known as the County line between Sussex & Southampton and then up
the road a Northwest to a Hickory tree a Corner on Milton C.
Cottrells Line, and thence a Southwest, to a Large Poplar a Corner
on Said Cottrells line. And thence down a branch to a black Gum
a Corner in the Swamp and thence down Said Swamp to a Sweet Gum
named as a Corner on the 1st new line and then up Said line to
the beginning.

3rd We allot to Virginia A. Clements One Share Supposed to Contain One Hundred and Ten Acres be the same more or less and Supposed to be worth Two Hundred Dollars.
The line Commencing at a large Poplar named as the Corner tree on Milton C. Cottrelles line. and then nearly west to a Red Oak, a Corner on said Cottrelles line. and thence a South Course to a Red Oak bush a Corner on Jeptha P. Hailes line and thence along down said Hailes line down to a black gum Standing in the Swamp Corner for V. A. Clements & Richard L. Grizzard and thence up said branch to a large Poplar the beginning.
4th We allot to Mary J. Smith & Lucy A Clements two Shares. Jointly. Supposed to Contain Two Hundred & Twenty Acres be the same more or less and Suppose to be worth Four Hundred Dollars
The line Commencing at a Red Oak named as a Corner on Millton C. Cottrelles line and thence up said Cottrelles line to Richard Harrises lins and thence up said Harrises line to a Corner in Benja. Princes line and thence along said line to a Corner in Robt. E. Bendalls line. and thence down said Bendalls line to Jeptha P. Hailes. line and then down said line to a Red Oak bush named as a Corner for Virginia A. Clements. And then up said line to a Red Oak named as Corner on Cottrelles line as the biggining
Given under Our hands this 14th day of November 1868.

Jas C. Peters
Robt. Rowland } Comrs.
Fortunatus Dunn

Richard P. Clements

Will

A Copy.

In the Name of God amen. I Richd. P. Clements of Southampton County, Make and Ordain this to be My last Will and Testament, revoaking all other Wills or Conveyances Made heretofore, Item: I lend to my wife Polly Clements the use of the plantation whereon I Now live during her Widowhood, with all the Stock of every Kind thereon, allso all the Household and Kitchen furniture with the plantation utencils, I ~~will~~ also lend her the use of my Single Six + Harness, and the following Negroes to wit: Daniel, Jordan, Lyda, Charlott, Charles, Bot + Jack.— It is my will that my Daughter Sally Clements live with my wife and be Supported out of the Estate so long free from any charge of Board or Cloathing, at the Death of my wife, I lend the Plantation with all the Furniture and Stock as above Mentioned to my Daughter Sally Clements, also the following Negroes to wit: Daniel, Jordan, Lyda, and Charlott with her increase, and then in fesimple to the lawful Heirs of her Body, Should She die without Such heir, I give the Plantation with all the furniture and Stock as above to my grandson Richd. Powell Clements, and the four Negroes with their increase.— Item: I, lend my Son Washington Clements the use of the Plantation I bought of George Whitehurst, also the use of the Plantation I bought of Calld Lane's, with the use of all the Stock of every Kind, Household and Kitchen furniture and Plantation utencils; I also lend him the use of the following Negroes to wit: Jacob, Davy, and Jim, and at his death to be equally divided between his children, except the Land and furniture which Richd. Powell Clements is not to have any part of, the Property thus Loaned Washington Clements, there is no part of it to Sold, Rented, or Leased, or Hired, but to remain as on the Plantation for the express purpose of Supporting himself, Wife and Children, and at his death I give it in fesimple to his children.— Item: I give my Daughter Polly Sallie Page Smith, one Feather Bed and furniture, Six Windsor Chairs, one Horse, two Cows, + Calves, one goat of Oxen, one Cart and Wheels, two Sows + pigs, four Ews, Six Silver Spoons, Cups, Sausers, plates, Dishes, Coffee-pot, tea Kettle, Iron Pots, and Plantation Utencils, all of which Property She has received, I also lend her the use of the following Negroes to wit: Stepan, Lizy and her Child Peggy, but Never to be in the possession of or under the Controle of Charles Smith, and at her death I give the Said Negroes with their increase

to be equally divided amongst her Children, but Should Charles Smith by any Means Whatsoever either by hiring or becoming Guardian of his Children ever have them in his perception or under his Controle, I then revoke this part of my Will and the Negroes with their increase return to my Estate to be divided among my other Grand Children. Item: I give my Grandson Richd. Powell Clements, my Negro Boy Charles, to be bound to Some good trade from the age of fifteen until he is twenty one years old, and then he is to receive him. ~

Item: I give to my Grandson Richd. Williamson Smith, my Negro Boy Bob, to be bound to the Black Smith's trade from the age of fifteen until he is twenty one years of age, and then he is to receive him. ~

Item: I give to my Grandson Wm. Geo. Thomas Clements my Negro Boy Jacke, to be bound to the Boot & Shoe Maker's trade from the age of fifteen until he is twenty one years old, then he is to receive him. My Will is that Nancy Rose Harper, live in my house until She Marry or thinks proper to leave it, at which time I give her One Feather Bed and furniture, One Cow & Calf, one Sow & pigs, one Ewe & Lamb, one Loom, One Spinning Wheel, and one pair of Cards, with Cord and pork Sufficient for one year. ~

Item: I give my Granddaughter Mary Joseph L. Clements, one Negro Girl Named Mariah, to her and her heirs forever. ~ Should I leave any Debts unsettled I wish my Executors hereafter Mentioned to Sell my Carriage Harness and whatever property can be best Spared to Satisfy the Same, and Lastly, I appoint my Friends Nathaniel Chambliss, and Fielden Rose of Surry County, my Lawfull Executors to this my last Will and Testament. Signed and Sealed this 16th day of July 1826. ~

Richd. P. Clements, (Seal)

interlined & erased
before signed. ~

R P C.

Southampton County Court, January 21st 1828.

This paper writing purporting the last Will and Testament of Richard P. Clements dec. was produced in Court, and it appearing to the Satisfaction of the Court, that the Said Will is wholly in the hand writing of the Said Richard P. Clements, it is therefore Ordered that the same be record. d as and for the last Will and Testament of the Said Richard P. Clements dec. -

Teste:

James Rochelle, Clk