

1871-128

SOUTHAMPTON COUNTY
CHANCERY PAPERS

ELLIS

VS. ELLIS' ADMINISTRATOR etal

3/1871

other surnames: Thomas, Doles

Ellis

r }

Stat. Rates

Ellis' adm f^o

In Southampton County Court

Samuel Ellis

Pelf

D. L. Dole late Sheriff & as such admr: of bondsmen of Samuel Ellis dec^d. &
Thomas & Richard Ellis Defts

1870 August 18. Summons issued &

" Sept. Rules. Sum. Ret. Ex². Bill filed - L.R. Edwards assigned for ad
litem to infant Dfts. answer of infants. Gen. Rep. thereto - D. Nisi to Dft Dole
admr

" Oct. R. Bill taken for confessed as to Dft: Dole admr. Cause set for
hearing &

" Nov - Decree for division &

1871 Feby Decree to Distribute

" Mar - Removed from the Docket

Ellis
vs 3 Bice
Ellis' Adams

1870 September Rules

Prince pg-

To the Hon: Joseph W. Wigham, Judge of the County
Court of Southampton County. In Chancery.

Humbly complaining sheweth unto Your
Honor, your orator, Samuel Ellis that during
the year 186- that his father Samuel Ellis
departed this life intestate, and N. N. Thomas
qualified as his Administrator; that N. N. Thomas
went on to settle his administration
accounts regularly & sometime since
qualified as the guardian of the orphans
of Samuel Ellis, transferring the balance
found against him on his last
administration account to his guardian
account. That the said Thomas has since
died and the estate of Samuel Ellis has
been committed to the hands of D. L.
Doler, late Sheriff, for further admini-
stration. That Samuel Ellis left your
orator & Thomas Ellis & Richard Ellis, both
infants, as his only heirs at law & dis-
tributors of his personal estate. That Samuel
Ellis also left a small tract of land
containing about one hundred &
fifty acres, situated in this County.
That the said tract of land in the
opinion of your orator is not suscep-
tible of division in kind, and is of little
or no value to the estate in its present
condition - There being no guardian
for the children, and no debts owing,
That in the opinion of your orator

who is one of the heirs of Samuel Ellis. It would be to the interest of all the parties interested to have the real estate sold, and the proceeds properly invested.

Intender consideration of all which, and inasmuch as your orator is without remedy in the premises, save in a Court of Chancery, where matters of this kind are peculiarly cognizable, to the end therefore that justice may be done, he prays that D. L. Dole, late of the said Adm^r d. b. n. of Samuel Ellis may be made a party defendant, ^{to them} & Thomas Richard Ellis both infants under the age of 21. that some fit & proper party may be appointed Guardian ad litem to defend the interests of the infants; that an order may be entered directing a Commissioner of this Court to enquire whether the real estate in the proceedings mentioned can be divided in kind, and if so, whether it would be to the interest of all the parties to be so divided; and that if it is found impracticable to so divide the real estate, that it may be sold and the proceeds properly invested. And that your Honor will grant such other, further & general relief in the premises as Equity may dictate and the nature of the case require, And as induty bound your orator

will ever pray &c. May it please the Court &c.

Primer per.

The Answer of Thomas Richard Ellis to infants under age of 21 by L. R. Edwards who is appointed their Guardian ad litem to a bill of Complaint exhibited against themselves & others by Samuel Ellis &c.

Then respondents saving & reserving all just grounds of exception to said bill, for answer thereto or unto so much thereof as they are advised it is material to answer, answering say that they are infants and know nothing of the facts stated in said bill, and being infants, they submit their rights to the protection of this honorable Court - and having answered, they pray hence to be dismissed with their costs &c.

Signed

J. R. Edwards Guardian ad litem

Primer per

Ellis Copy Bill &c.
24.

Ellis' Admrs &c.

To the Hon Joseph W. Waggoner, Judge of the County Court of
Sunderland County; Humbly Complaining Sheweth unto your Honor
your brother Samuel Ellis that during the year 1846 that his father
Samuel Ellis departed this life intestate, and A. N. Thomas qualified
as his Administrator; that A. N. Thomas went in to settle his
administration accounts regularly and sometimes since qualified
as the Guardian of the Infants of Samuel Ellis transferring
the balance found against him in his last administration
account to his guardian account - That the said Thomas has
since died and the Estate of Samuel Ellis has been committed
to the hands of J. L. Toles late Sheriff for further admin-
-istrations - That ~~Samuel~~ Samuel Ellis left your brother and Thomas Ellis
& Richard Ellis, both Infants, as his only heirs at law and
distributors of his personal Estate. That Samuel Ellis also left
a small tract of Land containing about two hundred
and fifty acres, situated in this County - That the said
tract of land in the opinion of your brother is not ~~divi-~~
-sible of division in kind and is of little or no value
to the Estate in its present condition; there being no
Guardian for the children and no rents accruing.
That in the opinion of your brother who is one of the
heirs of Samuel Ellis, it would be to the interest of
all the parties interested to have the real Estate sold
and the proceeds properly invested - In tender consideration
of all which and in as much as your brother is
without remedy in the premises, and in a Court of
Chancery, where matters of this kind are peculiarly
cognizable, to the end therefore that justice may be
done, he prays that J. L. Toles late Sheriff and as
such Administrator of Samuel Ellis may be
made a party Defendant to this bill and Thomas and
Richard Ellis both infants under the age of 21, that
some fit and proper party may be appointed Guardian
ad litem to defend the interests of the Infants; That

an Order may be entered directing a Commissioner of this Court
to enquire whether the real Estate in the proceedings mentioned
can be divided in kind, and if so, whether it would be to
the interests of all the parties to be so divided; and that
if it is found impracticable to so divide the real Estate,
that it may be sold and the proceeds properly invested.
And that your Honor will grant such order, further and
general relief in the premises as Equity may dictate and
the nature of the case require. And as in duty bound
Your Honor will ever pray &c.
May it please the Court &c.

Trine pg

The Answer of Thomas & Richard Ellis, Infants Under age of
21 by L R Edwards who is appointed their Guardian ad litem
to a bill of Complaint exhibited against themselves and
others by Same Ellis Jr. These respondents reserving
all just ground of Exception to said bill, for answer
submit to unto so much thereof as they are advised
it is material to answer, answering say, That they are
Infants and know nothing of the facts stated in
said bill, and being Infants, they submit their rights
to the protection of this honorable Court, and having
answered, they pray hence to be dismissed with
their costs &c.

L R Edwards Gore ad litem.

Copy
L R

James D. Tyler, Jr.

Ellis'

or $\frac{3}{3}$ Decree

Ellis's Adm'r

Nov: Term 1870-

To be entered

J. W. Weynhaert Judge

Ellis

vs $\frac{3}{4}$ Heene.

Ellis Admors.

This cause came on this day to be heard on the plffs bill, taken for compassed as to the adult defendant, D. L. Roler, the answer of the infant defendants by L. R. Edwards, their Guardian ad litem with replication thereto and was argued by Counsel: On consideration whereof the Court doth order that J. B. Preece, who is hereby appointed a Commissioner for the purpose proceed to allot & assign to parties entitled thereto, the respective shares of the land whereof said Ellis died seized. But if partition of the real estate cannot be made in kind without loss or injury to the parties, then the Court doth advise order & decree that J. B. Preece be & he is hereby appointed a special Commissioner for the purpose: That he sell the real estate in the proceedings mentioned, after having advertised the time, place & terms of sale for twenty days at the public places in the County. That the sale be made upon the following terms, one half cash, the balance on a credit of 12 months, bond with good personal security to be taken, carrying interest from day of sale. and the title to be retained until the further order of this Court. But the said J. B. Preece will not proceed to execute this decree until he shall enter into bond with approved security in the Clerk's office of this County in the penalty of \$500. - Conditions to faithfully execute this decree. And in either case

he is required to repeat his proceedings under
this order to this Court.

Ellis

to } Copy Done

Ellis adm J

Southampton County Court November Term 1870

Samuel Ellis

Plff

In Chancery

D. L. Doles late Sheriff & as such adm^r. de bonis non of Samuel Ellis dec^d & Thomas & Richard Ellis

Defts

This cause came on this day to be heard on the plaintiffs bill, taken for confessed as to the adult Defendant, D. L. Doles, the answer of the infant Defendants by J. R. Edwards, their guardian ad litem with replication thereto and was argued by Counsel; On consideration whereof the Court doth order that J. B. Prince, who is hereby appointed a Commissioner for that purpose proceed to ~~sell~~ allot & assign to parties entitled thereto, the respective shares of the land whereof Samuel Ellis died seized. But if partition of the real estate cannot be made in kind without loss or injury to the parties, then the Court doth adjudge, order and decree that J. B. Prince be, and he is hereby appointed a Special Commissioner for the purpose; that he sell the real estate in the proceedings mentioned, after having advertised, the time, place & terms of sale for twenty days at the public places in the County - That the sale be made upon the following terms, One half cash, the balance on a credit of twelve months, bonds with good personal security to be taken, carrying interest from date of sale, and the title to be retained until the further order of this Court -

But the said J. B. Prince will not proceed to execute this decree until he shall enter into bond with approved security, in the Clerks Office of this County in the penalty of \$500. Conditioned to faithfully execute this decree - And in either case he is required to report his proceedings under this order to this Court -

At Copy -

Clk \$7.75 paid
Law & 16.00 paid. J. B. Prince
Stff 1.50 paid W. B. 199

Teste, O. White Ck

Ellis

or $\frac{4}{3}$ Decree

Ellis' Adm. p.

Feb'y Term 1871

To be entered.

J. W. Wighamhart Judge

Ellis

or $\frac{3}{4}$ Decree.

Ellis is dead.

This day this cause came on to be heard on the papers formerly read and the report of Commissioner Priney reporting sale of land &c., to which no exception has been filed and was argued by Counsel. On consideration whereof the Court doth confirm said report, and doth further order that J.B. Priney pay to Sarah Ellis, one of the heirs of said Ellis deceased, who has attained the age of 21, one third part of the balance of the purchase money, after retaining sufficient to meet any further expenses of this suit, and that the said J.B. Priney hold the balance of the purchase money until the further order of this Court.

Ellis

or 3 Decem

Ellis' Adm.

March Year 1871

To be Entered

J. W. Myhart Jr.

Ellis

vs 3 Decr.

Ellis Adams &c

This day this Cause
came on to be again heard, and
on motion of the plf: it is ordered
that this Cause be removed from
the docket.

THE COMMONWEALTH OF VIRGINIA,

To the Sheriff of Southampton County, Greeting:

We command you to summon

D. S. Doles late Sheriff & admor. of Samuel Ellis dec. Thomas Ellis & Richard Ellis

if *they* be found within your bailiwick, to appear at the Clerk's Office of our *County* Court of Southampton County, at the Rules to be holden for the said Court, on the first Monday in *September next to answer a bill in Chancery exhibited against them in our* Said Court *by Samuel Ellis*

And have then there this writ.
Courthouse, this *18th* day of
the Commonwealth.

Witness, OSWIN WHITE, Clerk of our said Court, at the
28 August A. D., 187*0*, in the *25th* year of

Oswin White *cl*

Executed

W W Miggiff chff

Ellis

to { June 1871

Ellis and W

1870 Alexander Rules

Ellis
or 3 Bonaparte's Regt
Ellis Adams
" "

or $\frac{3}{2}$ Damp's Rep

Ellis Adams

1871 Feb. 17

To the Hon: Joseph W. Varghaast, Judge of the
County Court for Southampton. In Chancery.
Saml. Ellis

vs

D. L. Doler, late Sheriff & as such Adm'r d. b. n of
Saml. Ellis dec'd & Thomas & Richard Ellis..

In this cause, your Commissioner
respectfully reports as follows.. That in pur-
suance of an order entered at the November
Term 1870, he proceeded to allot to each
of the heirs of Saml. Ellis dec'd, their respective
shares of the real estate of which the said
Ellis dec'd seized. That the real estate consisted
of 157 acres of land, the most of which was
and is very poor; that he found no parti-
tion could be made, that would be of any
benefit to the heirs.. That upon enquiry
he ascertained that the land could not
be rented or leased for more than thirty
dollars per annum. and even in this
case, the manner of cultivating rented
lands was so detrimental to the land,
that a sale would be of more prac-
tical value to the heirs.. Accordingly your
Commissioner advertised the land for sale,
and at the sale N. J. Francis became the
purchaser, in the sum of Two hundred
& fifty dollars; which sum he paid in
cash. That your Commissioner has made
a deed to the purchaser, which action he
prays may be confirmed.. That on the next
sheet will be found a statement of the expenses

attending this suit & sale. vouchers for which
will be found in the copy of the decree, which
is herewith returned. They are as follows.

By amt. of purchase money-		\$250.00
To paid Clerk's Tickets	\$7.75	
" " Taxed Lawyer's fee	16.00	
" " " Sheriff's fee	1.50	
" " Commissioner's Commission	12.50	
" " " for making deed	5.00	
" " Stamp on deed	.50	\$43.25
Balance in hand of Commissioner.		\$206.75

Your Commissioner further states that there are
only three heirs entitled to this fund. only
one of whom has attained the age of 21.
viz, Samuel Ellis. All of which is respect-
fully submitted.

J. B. Prince

Commissioner.

Feby. 16. 1891
" ")

Ellis

~ } Com's bond

Ellis ad

Know all men by these presents that we J. B. Prince and Jos. H. Prince

are held and firmly bound unto the Commonwealth of Virginia in the just and full sum of Five hundred ^{Dollars} to the payment whereof well and truly to be made to the said Commonwealth we bind our selves our heirs executors and administrators jointly and severally firmly by these presents— Sealed with our seals and dated the 20th day of Feby. AD 1870

The Condition of the above obligation is such that whereas by a decree of the Court of Southampton County rendered on the 22nd day of November 1870 in a suit in Chancery therein pending between Samuel Ellis

^{Plaintiff and}
D. L. Dole late Sheriff & as such ^{admi de bonis non} of Samuel Ellis ^{de} ^{Defendants}
the above bound ^{was appointed Commissioner}
to make sale of certain real estate in the said ^{decree} described—
Now if the said J. B. Prince ^{shall faithfully discharge}
the duties of his said office or trust as Commissioner under the said decree or
under any other decree which may be rendered in the said suit then the above
obligation to be void or else to remain in full force and virtue—

J. B. Prince
Jos. H. Prince

Seal
Seal
Seal
Seal