

1880-16

Southampton County - Chancery

Seminons, Henry, et al vs

Williams, Mahala et al

"To divide property"

Henry Seminons
Sallie Seminons

John Pickup &
Hannah Pickup
his wife

Francis Williams &
Mahala Williams
his wife

"William S. Barker

J. B. Barker

S. H. Barker

S. S. Barker

Wife - N. B. Barker

Mary C. C. Barker

Walter Q. Barker

"Cora F. Barker

193

Simmons et al.

Simmons et al.

vs Bill

Williams & wife et al.

1878 April Rules

Griffin p.g.

To the Hon George Blount Judge of the Circuit Court of
Southampton County, - In Chancery -

For Complainants Henry Simmons and Sallie Simmons
~~his wife~~, John Pickup and Hannah L. his wife, It
- Spectfully represents - and shew unto your honor as
follows, That Spratly Simmons departed this life
in the year 18 in testate, leaving as his only heir
at law, the following named persons, his brother and
sisters, - The said Spratly Simmons never having
married. To wit, - Henry Simmons. Sarah Simmons
Hannah L. Simmons, who intermarried with James Pick-
- up, Mahala Simmons, who intermarried with Francis
E Williams, Clementine Simmons, who intermarried
with William Barker, each of whom have since departed
this life intestate, and left the following named minor
children, their heirs at law, to wit, - William D Barker
J. G. Barker, S. H. Barker, S. S. Barker, W. B. Barker
Mary L. Barker, Walter K Barker, and Lora A
Barker. That the said Spratly Simmons died seized
and possessed of a certain tract of land lying in
the County of Southampton Virginia, containing about
four hundred acres more or less, and bounded by
the lands of Walter White, John and Sallie Cobb
and others.

And your said Complainants being compelled
to sue in a Court of Equity, as this is, when such
cases are peculiarly Cognate, pray that your
honor will appoint suitable and discreet persons
as Commissioners to divide in kind if practicable
the aforesaid tract of land of which the said Spratly
Simmons died seized and possessed among the parties

intended trusts, but if not practicable, and as a substitute
to the parties to be devised in lieu, to report said
fact to the Court with such recommendation in
the premises as to them may seem fit.

And your Complainants pray that Francis C
Williams and Mahala his wife, William D Barker
Jr Barker, J H Barker, J S Barker, N B Barker
Mary L B Barker, Walter R Barker and Leora
J Barker, the last eight being infants, by SR
Edward their guardian ad litem, be made parties
^{defendants} by our Complainants Bill, and
required to answer ^{specially} the allegations therein contained.

And that your honor will grant such further
and general relief as justice may dictate and
the Equity of the Case may require.

And as in duty bound your oaths will ever
foray &c

Griffin pye

W.C. Perkins 171.13
 S. S. S. 171.13
 S. S. S. 171.13
 S. S. S. 171.13
 S. S. S. 171.13

589.52
 855-65

1881 Apr 19 $\frac{1}{2}$ Ac

Recd: Dec: 15th: 1879. One hundred and
Seventy one Dollars and thirteen
cents of P. A. Dreyer Commissioner
in suit of Simmons vs Williams &
others by order of a final decree rendered
Nov: Term 1879. in ~~part~~^{full} of the proportion
of sales of said decree due the
heirs or children of W. J. Barker &
Clementine his wife

C. H. Nichols

Lawson

Received ~~of~~ One hundred and Seventy one dollars ^{& 13 cent}
of P. A. Drewry ~~Commissioner~~ Commissioner in Suit of
Simmons vs. Williams and others by order of a final
decree rendered Nov Term. 1878 in full of my
portion of Sales of said decree.

Hannah C. Pickup

Dec. 15. 1878

John Pickup

Received Dec. 15th 1879 one hundred and Seventy
one dollars and Thirteen cent of P. A. Drewry
Commissioner in Suit of Simmons vs Williams
& others by order of a final decree rendered
Nov. Term. 1879 in full of my proportion
of Sales of said decree

Mahala. Williams

per

Received. one hundred and Seventy one dollars
and Thirteen cent of P. A. Drew's commission
in suit of Simmons vs Williams & others by
order of a final decree rendered Nov Term 1878
in full of my portion of sales of said decree
due me

Henry Simmons

Dec. 15. 1878

Received, Dec. 15, 1879. One hundred and
Seventy one Dollars and Thirteen cents
of P. A. Drury Commissioner in Suit
of Simmons vs Williams & Others
By order of a final decree rendered
Nov Term 1879 in full of my proportion
of sales of said decree

Lillie E. Simmons

This day Mrs F Pittman personally appeared
before me and made oath that he delivered
Mahala Williams, a Copy of this Summons
on the 30th day of March 1878. ^{Francis E Williams is dead.} Given under
my hand and seal this 30th day of March
1878.

Jack Tyler
Commissioner in Chancery

Summons returned

as { Summons in
the

Williams vs. v.

1878 April Rules

The Commonwealth of Virginia:

To the Sheriff of Southampton County---Greeting:

WE COMMAND YOU TO SUMMON *Francis C. Williams and*
Mahala his wife, Wm. V. Parker, J. L. Parker, S. N. Parker,
S. S. Parker, H. D. Parker, Mary L. L. Parker, Walter R.
Parker and Cora F. Parker, the last eight infants

if..... to be found within your bailiwick, to appear at the Clerk's Office
of our Circuit Court, of Southampton County at the rules to be holden for the
said Court, on the first Monday in *April next* to answer a bill
in Chancery exhibited against them in our said Circuit
Court by *Henry Simmont, Sallie Simmont and John*
Pickup and Hannah his wife

and have then and there this writ.

Witness, **Littleton R. Edwards**, Clerk of our said Court, at the Court
House this *23rd* day of *March* 187*8*, in the
102nd year of the Commonwealth. *LM Edwards C. C.*

(82)
Simmons }
vs } Rpt. of Com.
Williams }

1879 April 21st

To the Hon. George Blom, Judge of the Circuit-Court of
Southampton County.

The undersigned Commissioners appointed at
the May term of the Circuit-Court, 1878 to enquire into and
report whether partition can be conveniently made of a
tract of land mentioned and described in the bill of
the complainant, in the suit of Lemmon & others against
Lemmon & others, could be divided in kind among
the heirs entitled thereto. They have made the following
report to wit:— That after careful examination of
enquiry concerning such a division, we find that
such a division can not be made because of the
number of the parties interested therein, nor ^{can} ~~could~~
it be ^{it be} ~~allotted~~ ^{allotted} to any of the parties because of the inability
of the parties to do ^{they for the same} ~~it~~ either in whole or in part.

And your Commission report further that they believe
a sale of said land will promote the interest of the
parties interested in as much as there is no one of
the parties whose interest is sufficient to improve
or repair the same, and without such improvements
or repairs, said land must greatly depreciate because
of its neglect. We therefore recommend that said land
be sold at public auction as a sale of that
character would in our opinion best promote
the interest of the parties entitled to a division
of the same of the Court.

Respectfully Submitted

G. W. Vick {
G. W. Thompson }
J. B. Vick }
Comrs.

Simmons oals

25

Williams oals

Answer of Wm D Barker

F. G. Barker. S. H. Barker

S. S. Barker, et al

Barker, Mary, L. Barker

Walter R Barker & Co

J. Barker, by L R

Edwards their guardian

ad litem

The answer of Wm D Barker, J. E Barker
S H Barker S. S. Barker A B Barker Mary
C. C. Barker Walter K Barker and Cora J
Barker infants, by L R Edwards their guardian
ad litem assigned them by the Court to de-
fend their interest in this suit to the foregoing
Bill, filed against them and others in
the Circuit Court of Southampton County
by Henry Simmons and others.

The Defendants saving and reserving to
themselves all benefits of just exceptions
to said Bill answer and say that being
infants under 21 years of age, and
being ignorant of the law, they submit their
interest to the care and protection of the Court

And having answered ^{to be} pray them
Respected &c

L R Edwards Guardian

Simmons & Others

vs. {

Williams & Others

Report of Commissioner

1879 Oct. 22nd filed.

Wm. A. D.

—

October 22, 1879

1535.00

To the Hon George Blaw

Judge of the Circuit Court of Southampton County

Simmons &c

vs

Williams & others

}
}
}

Report of Commissioner P. A. Downey

The undersigned, who was appointed a special Commissioner by a Decree entered in the Court of Simmons & others vs Williams & others, at the May term AD 1879, of said Court, respectfully reports to the Court that he, after duly advertising the real estate in the proceedings mentioned, as required by said decree, did expose the said real estate at auction in Jerusalem on Monday the 20th day of October AD 1879 (County - Court day) and W^m W. White being the highest bidder, became the purchaser for the sum of nine hundred and thirty dollars (\$930.00 cents)

That the said White has paid to the undersigned the sum of \$232.50 cents in cash, one fourth of the purchase money, and has ~~executed~~^{three} bonds from the said purchaser for \$232.50 cents each, bearing interest from October 20th AD 1879, but due and payable one, two and three years after the date thereof, with sufficient security.

All of which is respectfully, this 22nd day of October AD 1879 -

P. A. Downey -
Commissioner

4) \$930.00
\$232.50

To Hon^{ble} Judge of the Circuit Court
of Southampton County

We the undersigned Commissioners
appointed at the last May Term to
enquire into and examine the Real Estate
of Spratt Simmons dec^d. Containing four
hundred Acres more or less,

We the said Commissioners beg leave to
make the following report, After a
careful examination of said Real Estate,
we believe the said Land cannot be
divided in kind, and think it would
be to the interest of all the parties to
sell the Land,

Oct. 24th 1878

Respectfully Submitted
Geo W Vick
Jesse B. Vick } Commissioners
George W Stephenson }

Know all Men by these Presents, That we Patrick A. Drury
Eli Davis

are held and firmly bound unto the Commonwealth of Virginia in the just and full sum of Sixteen hundred Dollars, to the payment whereof, well and truly to be made, we bind ourselves, our heirs, executors and administrators, jointly and severally, firmly by these presents. And we, the obligors herein, hereby waive the benefit of our Homestead Exemption as to this obligation.

Sealed with our seals, and dated this 21st day of July
A. D. 1879

The condition of the above obligation is such, that ^{whereas} ~~the~~ the above bound Patrick A. Drury by a decree of the Circuit Court of Southampton County rendered at the May Term of 1879 in the Chancery suit of Simmons & Co against Williams ~~he~~ was appointed Commissioner for certain purposes in said decree mentioned, Now if the said Patrick A. Drury

^{his} shall faithfully discharge ~~the~~ duties ~~of~~ ^{under} said ~~office or trust~~ ^{decree and under any other} according to law, then the above obligation to be void, or else to remain in full force and virtue.

Signed, sealed and delivered in }
presence of ~~the Court~~.

Patrick A. Drury [SEAL.]

Eli W. Davis [SEAL.]

[SEAL.]

[SEAL.]

Southampton County; in the Clerk's Office; July 21st 1879
This Bond was acknowledged by Patrick A. Drury
and Eli W. Davis, the obligors therein and Eli W. Davis the
surety thereto, justified on oath as to his suff-
iciency, the said bond is admitted to
record.

Attest-

J. R. Edwards C. C.

Simmons & Co
} Common bond
Williams & Co

103 9+

75

Simmons

VP

2

Stat. Rules

Williams

VP

1880 November Final
done

In Southampton Circuit Court.

Henry Simmons, Sallie Simmons, John Pickup & Hannah & his wife
against
Mahala Williams, William D Barker, F. G. Barker, S. H. Barker, S. L. Barker,
A. B. Barker, Mary C. C. Barker, Walter H. Barker & Clara F. Barker, the
last eight being infants by L. R. Edwards their guardian ad litem.

1878. March 23^d Summons issued

" April R. Summons returned Executed on Mahala Williams. Francis
E Williams dead. Bill filed. Suit abates as to Francis E
Williams. L. R. Edwards assigned Guardian ad litem to infant
Defendants. Decree nisi v. Dft Mahala Williams.

" May " Taken on last Monday in April) Bill taken for confessed as to Dft
Mahala Williams & Cause set for hearing as to her.

" " J. Decree &c.

" Nov " Rept. & decree &c.

'79 May- Decree for sale 1^o

1880. Nov. Final decree

Dorchester Circuit Court, May Term 1878.

Henry Simmons, Fannie Simmons, John Pickup
& Hannah C. his wife Feff. In Chancery
against

Mahala Williams, Wm. D. Parker, J. G. Parker,
S. H. Parker, ^{S. S. Parker,} A. B. Parker, Mary C. C. Parker,
Walter K. Parker, & Cora D. Parker, the last
Eight being Infants by S. R. Edwards their
Guardian ad litem. Feff.

This day this Cause came on to be heard on the
Bill of the Complainants taken for confessed as to the
Defendants Mahala Williams on whom process has been
duly served, she still failing to appear & plead
answer & demurr, to the said Bill, & on the answer
of Wm. D. Parker, J. G. Parker, S. H. Parker, S. S. Parker,
A. B. Parker, Mary C. C. Parker, Walter K. Parker &
Cora D. Parker, Infants by S. R. Edwards their Guardian
ad litem, with general replication thereto, & was argued
by Counsel; the death of Francis C. Williams, since
the institution of this suit, having been suggested
to the Court. On consideration whereof the Court
doth adjudge, order & decree, that George W. Field,
Jesse B. Vick, Geo. W. Stephenson, & Geo. W. Vick,
be and are hereby appointed Commissioners, (any
three of whom may act) to enquire into and
report upon the partition and to conveniently divide
of the tract of land mentioned & described in the
Complainants Bill containing Four hundred acres,
more or less, & divided in kind among the heirs
of Spratly Simmons dec'd. as fully named in said

Complainant's Bill; & if said partition cannot be made
conveniently, whether said land may be allotted to any
party who will accept it, & pay therefor to the other
parties such sums of money as their interest therein
may entitle them to, and if cannot be either divided
in kind, or allotted to any of the parties, whether
the interests of the parties, cannot well be promoted
by the sale of the whole, or an allotment of part
for sale of the residue, & report the said facts
to Court, together with the evidence taken by them,
with any matter which by them, may be
deemed pertinent, by any of the parties.

A Copy

Sister,

J. K. Tyler & Co

Enclosed
City closed
Williams & Co & Co

Simmons &c

vs

Williams & others

This cause was again heard this day on the paper formerly read and the report of Commissioner J. A. Downing, to which no exceptions have been filed and was agreed by Court, on consideration whereof the Court confirming said report doth adjudge, order and decree that the said Commissioner after paying the cost of suit and expenses of sale out of the cash proceeds of said sale, shall proceed to collect the bonds for the deferred payments as they become due and may allow ^{said debt} ~~the~~ ^{white} ~~the~~ purchaser of the said tract of land mentioned in the report of said Commissioner - to anticipate the payment of said bonds on each of them as ^{said purchase money} ~~the~~ ^{by} ~~the~~ ^{paying} the same in cash before they become due. ~~and for~~ ^{for} purpose the said Commissioner is hereby directed to withdraw from the paper in this suit the bond of the purchaser for the deferred payments for collection. ^{leaving copies thereof on the paper of the Court} And after he shall have collected the same and paid the subsequent ^{expenses} cost of this suit, he is further directed to distribute the remainder of the said purchase money among the heirs at law of Sprotty Simmons deceased as follows: One fifth to Henry Simmons; One fifth to Sarah Simmons; One fifth to James Dickah and Annah Le his wife; One fifth to J. E. Williams and Mahala his wife. And one eighth of one fifth each to the legal ^{guardians} ~~guardians~~ of the following named children, heirs at law of William Barker and Clementine his wife, viz, William D Barker, J. G. Barker, J. H. Barker, J. S. Barker, J. B. Barker, Mary Le Barker, Walter R Barker and Leora F. Barker. Taking their receipts for the same. And the Court * is directed to deposit the same in the Bank of Portsmouth in the City of Portsmouth Virginia subject to the further order of this Court.

doth further adjudge order and decree, that the said Com-
missioner, after the said Sale, the said purchaser, shall
have paid all of the purchase money, shall execute
to the said purchaser a good and lawful deed with
special Warranty for the tract of land described
in the Complainant's bill, which shall be firm, stable
and binding, And report to this Court his proceedings
herein in order to a final decree

Simmons &c

vs

Williams &c

Decree

Chas. J. M. C. C. 4-1879

To be entered

George W. M.

Simmons & Co

vs.

Simmons & Co

Nov Term 1878

To be entered

Geo. Bloss.

Simmons &c

V.S.

Simmons & others

This Cause this day came on again to be heard on the papers formerly read and on the report of Commissioners Geo. H. Vicks, Jesse B. Vicks and Geo. H. Stephenson, appointed at the May term of this Court 1878. To which no exceptions have been filed, and was argued by Counsel on consideration whereof, the Court doth affirming said report doth adjudge order and decree that said Commissioners make a further report in which they are required to state more fully why the lands decreed in Complainants Bill cannot be divided in kind. Among the heirs of Sprothy Simmons, if ext; then whether the same may not be allotted to any of the parties who will accept it and pay ^{therefor} to the other parties such sums of money as their interest therein may entitle them to, and if it cannot be either divided in kind or allotted to any of the parties, whether the interest of the parties concerned will be promoted by the sale of the whole or an allotment of part and a sale of the residue. And report the said facts to Court together with the evidence taken by them and any matter that may be deemed pertinent by any of the parties.

Simmons v.als

78

Simmons v.als

This day this Cause came on for hearing on the Bill of the Complainant, Taken for confessed as to the defendant Abigail Williams, on whom process has been duly served, she still failing to appear and plead, answer and do more to the said Bill, and on the answer of Wm D Barker, J. E. Barker, J H Barker, J. S. Barker, J B Barker, Mary E. Barker, Walter K Barker, and Leora F. Barker infants by L. R. Edwards, their guardian ad litem, with general application there to, and was agreed by Counsel, the death of Francis E. Williams since the institution of this suit - Having been suggested to the Court - On Consideration whereof the Court doth adjudge order and decree that George Whitfield, Josiah B. Vick, George H. Stephenson, and George H. Vick be and are hereby appointed Commissioners, any three of whom may act, - to enquire into and report - whether partition can be conveniently made of the tract of Land mentioned and described in the Complainant's Bill (Containing four hundred acres more or less), and divided in kind among the heirs of Sprothy ^{Simmons} Williams deceased, as fully named in said Complainant's Bill. And if such partition cannot be conveniently made, whether said Land may be allotted to any party who will accept it - And pay therefor to the other parties such sums of money as their interest therein may entitle them to, and if cannot be conveniently divided in kind or allotted to any of the parties, whether the interest of the parties concerned will be promoted by the sale of the whole, or an allotment of part - and a sale of the residue, and report the said facts to Court together with the Evidence taken by them

Not any further which by them may be deemed
judicious - by any of them parties.

Simmonsals }
vs } done
Simmonsals }

May Term 1878

To be entered

Geo. B. Lord.

Simmons & Co
25
Williams & Co

Dance - May 1899
Cu at 1899.

To be entered

Geo. T. Blod.

Simmons & Co.

vs

Williams and others.

This cause was again heard this day on the papers formerly read and on the report of Commissioners Ellrich, Est Stephenson and Jesse Black, to which exceptions have been filed, and was argued by counsel. On consideration whereof the Court - Confirming said report - doth adjudge order and decree that the tract of land mentioned and described the bill of the complainants as lying in the County of Southampton be sold after thirty days notice of said sale, to be published at six or more public places in said County, at public auction, to the highest bidder, in Jerusalem before the Court-house door, on some Court-day, on the following terms to wit: - One fourth of the purchase money in cash, the balance on a credit of one two and three years, the purchaser to give bonds for the deferred payments with security approved by the Clerk of the Court, and payable to the Commissioners with a waiver of the homestead. Title to be retained until all the purchase money is paid.

And for the purpose of executing this decree, Patrick A. Drury is hereby appointed a Commissioner to sell said tract of land, but he shall not proceed to act as such until he shall have executed in the Clerk's Office of this Court, before the Clerk thereof, a bond in the sum of six hundred dollars conditioned for the faithful performance of the provisions of this decree, and all other decrees to be entered in this suit. - And the said Patrick A. Drury, Commissioner so appointed, is ordered to report to this Court his proceedings hereon in order to a final decree.

Simmons & Co

vs

Williams & Co

Dece

Nov Term Cir Ct 1880.

To be entered

Geo. B. Lord,

Simmons &c

vs

Williams & others

This cause was again heard this day on the papers formally read and the report of special commissioners J. A. Denny, reporting the execution and delivery of a deed with special Warranty to H. H. White - purchaser of the Sprattly Simmons tract of land described in the bill of the Complainants, the collection of the purchase money of said sale in pursuance of a former decree in this cause, and the distribution, after the payment of the unpaid cost in this suit of the proceeds of said sale to the heirs at law of the said Sprattly Simmons deceased, as shown by the receipts of said parties, filed as a part of said report and marked respectively, "A" "B" "C" "D" "E". On consideration whereof, the Court confirming said report and there appearing nothing further necessary to be done in this cause, doth adjudge, order and decree that the same be removed from the docket.