

1885-11

Southampton County Chancery.

Darden v Myrick
E.M. W.A.

vs Pope, Joseph B's estate

Swing for deed * Plat within
to property bought
before death of Pope

Minors { Pope, Jennie B.
" , Abner S.
Harrison P.
Kewitt H.
Virginia A.
Mary J.

Prince, J.B.
G.A.L.

Norden and Myrick
vs 3 Bill re,
Popes

1884 Octo: Rules.

Parties, &c.

To the Hon. Geo. Blaw, Judge of the
Circuit Court for Southampton County.
In Chancery.

Humbly complaining, sheweth unto
your Honor, your Complainants, E. M.
Darden and W. A. Myrick, of the said
County of Southampton,

That, on the 2nd day
of August, A.D., 1883, they purchased
from Joseph B. Pope, for the sum of
\$48.75, a lot or parcel of land, lying
in the County of Southampton, containing
3 1/4 acres, situated and adjoining the
North side of Darden and Myrick's
mill, as will more fully appear from a
plat and survey of said lot or parcel
of land, and said J. B. Pope's receipt for
the purchase money thereof, herewith
filed, marked exhibits "A" and "B", and
made a part of this cause;

That, sometime during
the year A.D., 1884, the said J. B. Pope
departed this life, having first duly
published his last will and testament,
which was duly recorded in the Clerk's
Office of Southampton County, and leaving
Jennie B. Pope, his widow, and Abner S.
Harrison P. Swit H. Virginia A. and

Mary J. Pope, the last five minors, as his devisees and distributees, as will more fully appear by a certified copy of said will herewith filed, marked exhibit "D", and made a part of this cause.

That neither the said J. B. Pope in his life-time, nor has any one for him since his death, executed to your complainants a good and valid deed for the said land; And your complainants are advised that a Commissioner should be appointed with full power and authority to execute to them a good and sufficient deed for the same.

In consideration whereof, and forasmuch as your complainants are without adequate remedy at law, and only entitled to relief in equity, where matters of this nature are proper to be heard. To the end, therefore, that justice may be done, your complainants pray that Jennie B. Pope, Abner S. Harrison C. Hewitt H. Virginia A. and Mary J. Pope, the last five minors, be made parties defendants to this bill; That a proper guardian ad litem may be appointed for said minors, That the said adult parties and the said minors by their said guardian

ad litem be required to answer this bill on oath; That a Commissioner be appointed to execute a good and sufficient deed, under the direction and authority of the Court, to your Complainants for the lot or parcel of land aforesaid.

And that your Complainants may have all such other, further, general and special relief in the premises as to equity may seem meet and the nature of the case require.

And as in duty bound your Complainants will ever pray &c.

May it please the Court &c.

W^m St. Parker f.c.

The joint and separate answers of Abner S. Harrison P. Hewitt H. Virginia A. and Mary J. Pope, by J. B. Prince their guardian ad litem, assigned to defend them in this suit, to a bill of Complaint exhibited against them and others, in the Circuit Court for Southampton County, by E. M. Darden and W. A. Myrick.

These respondents reserving to themselves the benefit of all just exceptions to said bill, for answer thereto, or by so much thereof as

they are advised that it is material they should answer, by their guardian ad litem answer and say:—

That they are infants, and by reason of their infancy, are incapable of understanding, of taking care of their rights and interests. They, therefore, by their said guardian commend themselves and their rights and interests to the protection of the Court, and pray that no decree may be pronounced which will tend to their prejudice.

And having fully answered, the said respondents pray to be hence dismissed with their reasonable costs in this behalf expended, and they will ever pray &c.,
Wm. Parker f.c.

"

In the name of God amen,
I Joseph B. Pope of the County
of Southampton and State of Virginia
being of sound mind and memory
(believed so God for the same)
do make and publish this my
last will and Testament.

Item 1st I give and devise unto my wife
Jennie B. Pope my Home house
farm, situated in about four
miles of New ones Depot, also
the tract of land known as the
Henry Joyner place to have
and to hold during her life and
after her death, I give and
^{in fee simple} devise, the same to my son Abner
Stephen on Pope.

The Henry Joyner Place above
alluded to is at present occupied
by Dick Arter as a knoth

Item 2^d I give and bequeath unto my
said wife Jennie B. Pope, one
third of my entire personal
estate, including money, bonds,
notes, securities, and Chattel
Estate, household and kitchen
furniture, any interest
that I may have in store, (not
including the land and buildings)

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or any interest that I may have
which is considered personal
Estate, but I give it to her that
is all that is included in this
item (2nd) with this special
request and injunction that
in case there should be any
part or portion of the above
bequeath (Item 2nd) either prin-
cipal or interest on principal
or any increase whatever
of said Item (2nd) in kind or other-
wise, left at her death, that
she the said Jennie B. Pope
give it to my son Abner S.
Pope or equally divide it

between him and any other
children that may be born
unto us: and to effectually
execute the said request and
injunction my desire and last
request of my said wife is that
should she marry again after
my death, before such marriage
that she make a will disposing
of the property included in this
item as I have requested her.

Item 3d I give and devise unto my

Son Abner S. Pope the whole
of the Stephens on Place tract
of land, half of which I
inherited from my Uncle
Abner N. Stephens and pur-
chased the other of my brother
E. P. Pope.

I give and devise unto my
said Son, Abner S. Pope, my
interest in the land & buildings
at Branchville, the piece of
land at Newsoms Depot contain-
ing about two thirds of an acre
also ~~any~~ lands or interest in
lands that I may own at the
time of my death, not other-
wise herein disposed of, or
devised, I also give and bequeath
to my said Son Abner S. Pope
all of my personal estate and
the proceeds of such that
may be sold after my death:
not given to my wife in item
the 2nd. I mean by this my
whole estate both real and
personal not otherwise herein
disposed of. I give devise and
bequeath all of said Estate
included in this item (item 3rd).

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to my said Son Abner S. Pope
in fee simple. should he
arrive at the age of twenty one
years (21) or should he marry
before that age and leave
lawful issue in either of
these events I give to him in
fee simple but not otherwise
the income of all the estate
both real and personal given
unto my Son Abner, may be
expended by my Executors or
personal representatives, or
by his (Abner's) guardian on his
education and other expenses
necessary for such and accor-
ding to his station and standing
in life, but be it understood
by said Executors or guardian
that no more than is enough
and necessary for such
purposes, as aforesaid shall
be so expended and I leave it
to the present judgment of
the above named party or parties
to judge of how much shall
be so expended: the balance or
remainder of said income as

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above said I wish to be
invested by my personal
representatives or my son
Abner's guardian or next
friend: in real estate, individ-
ual bonds secured by real
estate, City bonds railroad
bonds or in some good and safe
investment which in their
judgment they may deem
secure the same to be secured
as principal and I give it to
my son Abner with the
contingencies and conditions as
above written and described
in this instrument (39) I desire my
personal representatives to have
my son Abner well educated
& kept at school until he
is 21 years old if circumstances
so admit and to impress upon
him the importance of pre-
paring himself for some good
profession or occupation
my wish and desire is and I
enjoin it on my personal-
representatives or Abner's guardian
that he shall never be sent to
any sectarian school of any

discreption or denomination,
 and while he is under the contract
 and natural guardianship of his
 mother, or any person who
 may have contract of him my
 desire & wish is that they shall
 never send him to a school
 where the tenets of any partic-
 ular denomination are taught
 or any teacher or governess employ-
 ed who would teach or instill
 in him the doctrines of any
 particular church, and I
 wish the same regarded and
 observed as to any children
 that may be born unto me

Wm. In the event and contingency that
 there should be another child
 born unto my wife and my
 self, I give devise and bequeath
 unto such child the Place on
 which I reside i.e. The Home Place
 and the Henry Joyous Place
 after my wife Jennie B. Pops
 death, the same that was given
 to my son Abner should I
 have no other child and disposed
 of in item the first (1st) to which

referred is made and in consid-
 eration that I give Abner the
 Stephenson tract which I con-
 sider much more valuable
 than my home & Place, such child
 so born I give one third more
 of my personal Estate than to
 Abner, which can be determined
 after my wife is settled with
 my interest in the real Estate
 at Branchville and the tract of
 land at Chewons devised to my
 son Abner under head of them
 the third in the event as before
 said that I should have another
 child born unto my wife and
 my self I devise the property
 at Branchville that is my interest
 in the real estate then to Abner
 and and the piece or tract of land
 at Chewons to such child so
 born as above said.
 Should either Abner or the child
 that may be born as aforesaid
 die before they are 21 years old
 and without lawful issue the
 entire property above and before
 given or devised shall go, and

and I give it to the one that may⁸
survive and arrive at the age of
21 or leave lawful issue if there
be any child so born, I wish it
educated and the same instruction
and conditions observed and carried
out as regards Abner and fully
expressed under head of item
the third.

Item 5th Should and in the event my son
Abner or any child born here-
after unto myself and wife
die before arriving to the age
of twenty one year and without
issue, that is to say should I
have no child to live to be 21-
years of age and should there
be no lawful issue of such
then the whole an entire
property both real and personal
given and devised in this instrumen-
t except such personal estate
as was divided in fee to my
wife Junius R. Pope under
head of item the 2nd, I give
and devise as follows viz:
My Home Place and the Henry
Joyner Place devised to my^{wife} for

her life under then the 1st
I give and devise said tracts
of land to my Nephew Harrison
P. Pope and should he die
under 21 years of age and
without issue I devise the same
to my stepson Hewitt Harris
Pope.

The Stephenson Place farm
I give to my Nephew Hewitt
Harris Pope, and should he
die before he is twenty one
years old and without issue
the same I devise to give to my
Nephew Harrison P. Pope, and
should both my stepsons
die under 21 years of age and
without lawful issue, I devise
said land to my Wives Virginia
Ann and Mary Jane Pope.

The land at Crews and
Branchville may be sold and
the proceeds divided as my
personal property now to be
disposed of to wit:

I wish my entire personal
property not given to my wife
to be divided into nine (9) equal
shares my two wives, Virginia

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and Mary. I wish to give and do
bequeath 3 shares each my Nephew
Harrison P. Pope I give 2. shares
and my other nephew Stewart H
Pope I give one (1) share making
the total 9 shares.

The above said children mentioned
in item the 5th this (will) are the
children of my brother R. P. Pope
by his wife Bettie J. Pope, and
the property given under this
head both real and personal
is given solely in the event and
contingency that I should have
no child by my wife to live to
be twenty one years old and
that there is no lawful issue
of any. If I should have any
child to arrive at such age
as above said or such child
should die with lawful issue
then this item (5th) is void and of
no effect.

Item the 6th I appoint my cousin, Jas
H. Darden and my friend Jos
B. Prince my legal executors
and representatives to carry out
and execute this my last will

and testament, and they can either give a joint bond of qualification or qualify separately, but should they choose to qualify by giving a joint bond. I desire the Court to require no security to said bond. After my estate is settled I hope one or both of them would act as guardian for my children. I have a high regard as to the integrity and business capacity of both and hope and believe they will do what they can to carry out my wishes and desires as expressed herein,

I give my Secretary left me by my Father G. P. Pope in his last will to my half Brothers

Thos. J. Pope. This is the only instance in which I have mentioned any of my half sisters or brothers not because I love them less, for I can assure them of my attachment, but because they are well provided for and with good prospects of more.

In testimony whereof I hereunto set my hand and seal and do publish and declare this to be

my last will and Testament ¹²
that it was wholly written
and composed by my self alone
this 28th day of August in the
year of our Lord one thousand
Eight hundred and eighty three
(1883)

Joseph B. Pope

At a County Court held for
the County of Southampton on
the 18th day of Feby. 1884

A Writing purporting to be the
last will and testament of Jos.
B. Pope was produced in court
by J. B. Primes and James A. Darden
the Executors therein named -
and there being no subscribing
witnesses thereto Jas L. Barham
and James A. Darden were
sworn and severally deposed
that they are well acquainted
with the hand writing of the
testator and verily believe
the said writing and the names
thereto subscribed to be wholly
written by the testator's own hand
whereupon the said writing

is ordered to be recorded as the true last will and testament of the said Joseph R. Pope decd, And on the motion of Jos R. Primes and Jas A. Hanson the Executors therein named who made oath according to law, entered into and acknowledged a bond in the penalty of Forty thousand dollars conditioned as the law directs, (but without security the Testator requesting that none should be required and the Court requiring none) which bond is ordered to be recorded Certificate is granted the said Jos R. Primes and Jas A. Hanson for obtaining a probate of the said will in due form - and upon their further motion Herod Pope, Charles Knight and James G. Bryant are hereby appointed appraisers who being first duly qualified will appraise the personal Estate of the said decedent and return the same under their hands as the law directs

Attest Teste J. R. Primes etc

Dardennd Myrick
To 3 Dec
H. J. J.

1885 May Term.

To be entered.

Geo. Brown,
→

Entered 117
Dismissed

Darden and Myrick.

To
Hopes
3
Decree

This day this Cause came on to be further heard on the papers formerly read, the report of Special Commissioner, Wm. H. Parker filed during the term, to which report there is no exception, and was argued by Counsel. On Consideration whereof, the Court doth approve and confirm the said report, and it appearing that a deed, with special warranty, has been ~~been~~ signed, sealed and delivered to G. M. Darden and W. A. Myrick for the land in the proceedings mentioned, pursuant to the decree entered at the November term of the Circuit Court 1884, and nothing further remaining to be done in this Cause the Court doth decree that the same be removed from the docket.

Saraen and Myrick

vs 3 summons.

Pope sorters

1884. Oct: Rules

Executed by delivering
a copy of the within
summons to Jennie B.
Pope in person on the
3rd day of Octo: 1884.

W. W. Meigs 24th

THE COMMONWEALTH OF VIRGINIA,

To the Sheriff of Southampton County—Greeting:

WE COMMAND YOU TO SUMMON

*Jennie B. Pope, Abner S.
Harrison P. Keitt H. Virginia A. and Mary J.
Pope, last five minors*

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 *October* next, to answer a bill in Chancery exhibited against *them*
in our said Court by *E. M. Darden and W. A. Myrick*

And this *they* shall in no wise omit; and have then there this writ.

WITNESS, J. B. PRINCE, Clerk of our said Court, this *22* day of *September*, 188*4*,
in the *109th* year of the Commonwealth. *Teste. J. B. Prince C. C.*

¹⁴⁴
Darden & Myrick
vs J Deere
Popes

Nov: Term 1884.

To be entered.

Geo. B. Brown

Darden & Myrick

vs } Decree,

Popes

This day this cause came on to be heard on the Complainants bill taken for confessed as to the adult defendant, upon the answer of the infant defendants by J. B. Prince their guardians ad Litem, upon the exhibits filed, and was argued by Counsel. On Consideration whereof, and it appearing to the Court, that the Complainants ~~have~~ purchased from J. B. Pope in his life-time $3\frac{1}{4}$ acres of land bounded as set forth in the bill mentioned and plat of survey therewith filed as an exhibit, and that they have received no Deed therefor from the said Pope in his life-time, nor from any one else since his death, The Court doth adjudge, order and decree that Wmth H. Parker be and he is hereby appointed a special Commissioner to execute to them a Deed with special warranty for the same, and report to Court his proceedings under this decree.

Warden & Myrick vs Popes.

Copy will of J. B. Pope, mark it exhibit
"D" and file in papers of this case.

Recd of E. M. Warden and W. A. Myrick
Forty Eight \$1,000 dollars the same
being the purchase money for a piece
of land lying on the north side of
said Warden's ~~place~~^{Myrick's} mill and containing
by H. B. Kindred's survey $3\frac{1}{4}$ acres.

J. B. Pope

Aug 2 - 83

Personally appeared before me J. B. Parmer, Clerk
of Circuit Court of Southampton, W. H. Parker
& J. H. Barham, and made affidavit
that they are well acquainted with the
handwriting of J. B. Pope and they well
believe the above signature to be in his
the said J. B. Pope's handwriting.

Given under my hand Nov. 6. 1883.

J. B. Parmer C. C.

Darden and Myrick

rs

Σ
B

Popeo

Report of Special
Commissioner, Wm. H.
Parker.

Darden and Myrick

To
Hijos

Report of Commissioner.

The undersigned, your Commissioner, makes the following report, and asks that the same be confirmed, that pursuant to the terms of the decree entered at the November Term 1884, he signed, sealed and delivered a deed, with special warranty, to E. M. Darden and W. A. Myrick for the land in the proceedings mentioned.

1885 May 5th

Very Respectfully-

Wm. H. Parker,

Special Commissioner.

"

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Danden Llyrich

us Gstat: Rules

Pope & others

In Southampton Circuit Court.

E. M. Darden and W. A. Myrick Plffs. }
against

Jennie B. Pope, Abner S. Pope.

Harrison P. Hewitt H. Virginia

A. & Mary J. Pope last five

muirs.

Defts

In
Chancery.

1884. Sept 22. Summons issd to Oct: Rules--

" Oct. Rules. " ret'd Exctd on adult deft. I. B. Prince

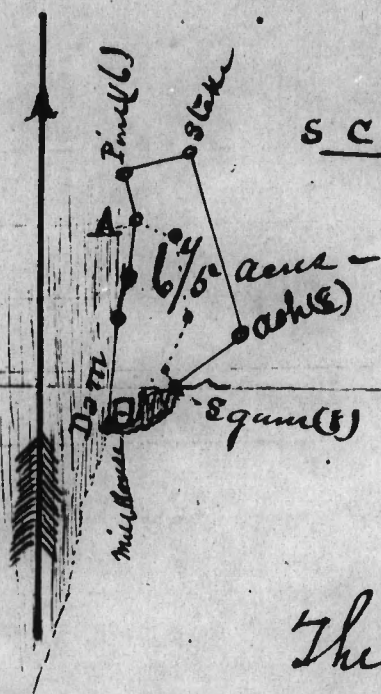
Assigned Gov as litem to infant defts.

Answer of infants filed. Gene Paphia-

tion. Deere nisi vs adult deft.

" Nov: "

Cause set for hearing--



scale

10 chains = 1 inch

The above plat represents a ~~portion~~ parcel of land which Jas. B. Pope sold to E. M. Darden & W. A. Myrick, situated and adjoining the north side of the mill Tail of D.M. Mill - the same being, being a portion of the "Stephenson Place".

Bounded as follows: - Beginning at a Pine (40) about 20 yards north of Flood gate - on West side of mill road - thence in direction of said Road N 16 1/2 W 260 chains to Pine (6) cor: thence N 73 1/2 E to a stake a corner P's land: thence S 16 1/2 E 980 to ash (8) Branch cor: thence S 66 W 418 to named Square (8) on mill Tail; thence along mill Run of same to dam; thence along same to

Beginning -

Containing Six 1/8 acres -

Surveyed June - 1883

H. R. H. indred

Surv.