

1818-011

Chancery Causes: Joseph B. Whitehead & ux. Robert West & ux + al vs Virginia Jane Oliver

Judge of Wight County

other surnames: Johnson
Smith, Oliver, Johnston

To the Justices of the ^{Court of the} County of Bluff Neff in chancery sitting, humbly complaining & shewing your Honours your orator and oratrices Joseph B. Whithead and Helen his wife formerly Helen Smith, Robert Mott and Frances his wife formerly Frances Smith, Sally Smith and Elizabeth Johnson formerly Elizabeth Smith. That the said females are the daughters of a certain Thomas Smith who departed this life on or about the day of Ascension 1738 having first made and published his last Will and Testament, to which reference is prayed to be had, and which said Will is duly recorded in the County Court of Bluff Neff. That this father devised to them the said females and their sister now deceased, to wit Jane Oliver formerly Jane Smith, all his lands on the North Side of the Little Creek which runs between the Manor plantation and the Town of Smithgate, up the said creek to the road leading from Smithgate to the Cypress Mills, from thence up the said road to fork opposite the plantation where Spe Gordon (a free negro then lived, then up the said run by his plantation till it comes to the main road leading from the Cypress Mills across through the fletcher lands; from thence down the said road to his line dividing said lands from the fletcher lands, thence down the said line to the town of Smithgate, including all my lots and vacant lands in and around the said Town of Smithgate, to be equally divided between them, having regard to value and situation; — That the said Jane has departed this life, leaving an infant daughter Virginia Jane and Oliver who as her representatives they are advised in entitles to that part of the said lands to which their mother in her lifetime was entitled — That the lots and vacant lands in and around the town of Smithgate have ~~been~~ ^{not} been divided between them and the said Jane in her lifetime or the said infant since her death agreeably to the Will of this father. Your complainants have long been very anxious that a division of the undivided lands aforesaid should be effected, but in consequence of the injury of the said ^{Virginia} Jane Oliver and the consanguinity of her father Augustus Oliver her natural guardian, they have been unable to obtain this desirable object. and they are advised that it can't be done without the aid of this Court of Equity. They represent that a division

of the said property shall operate advantageously
to all the parties concerned - They therefore pray that
the said Virginia Jane Olive ~~be appointed~~ be
made a defendant to this Bill of complaint, and
that by her Guardian to be appointed by this Court to
~~answer~~ ^{on oath} ~~thoroughly~~ defend her interest in this suit, she
be compelled ^{on oath} ~~thoroughly~~ fully, truly and perfectly to answer
all and singular the allegations in this Bill, as fully
and if the same were here again repeated and the
facts more particularly interrogated they further
pray your Honours will decree that the undivided
lands and lots in and about the said town above
alluded to be divided equally between them and the said
Virginia Jane Olive against the will of the said
Thomas Smith - That your Honours will appoint fit
and proper persons to carry the said decree into
effect and make any other order or decree for
the relief which may see just and equitable -
and they pray the ~~same~~ Court to be satisfied with the premises
to - Condone - and as in duty bound they will ever
pray &c. -

Attest p. 5

Joseph B. Whithead
Robt. Mott
Elizabeth Johnson
Sally Smith -

The joint and separate answer of Virginia Jane
Olive infant daughter of Jane ~~Smith~~ Olive formerly Jane
Smith decd. and daughter Olive by Augustus Olive her
Guardian appointed by the County of Wright to defend
her in this suit, to a Bill in Chancery exhibited against her
in the said County Court by Robert Mott and Frances his
wife Joseph B. Whithead and Seline his wife, Elizabeth
Johnson and Sally Smith. -

This respondent saving and reserving to herself all right
of exception to the manifold errors and imperfections in the
Bill of the complainants, for answer thereto or to or much
as she is advised it is material for her to answer - saith
that she cannot ~~deny~~ deny the facts and allegations in
the Bill ~~that~~ in they are true and will cheerfully yield
obedience to the wish of the parties expressed in the Bill or
to any other or further order which may see just
and equitable, & she prays the same to be dispensed with
her costs in this behalf so unreasonably expended -

Attest p. 6 -

Robert Mott and Frances his wife, Joseph B. Whithead
and Seline his wife, Sally Smith & Elizabeth Johnson
Complainants in Chancery

Virginia Jane Olive ~~respondent~~ - Deft. -

By consent of parties and the order of the Court
this cause came on this day to be heard upon the
Bill ~~and~~ ^{and} answer filed, ^{exhibits} and arguments of Councils,
whereupon the Court doth a Judge, now seated that
Joseph Atkinson, Thomas Percival and George Wilson or any
two of them appointed by the County Surveyor if necessary
do divide into five equal shares the undivided lands &
lots ~~in~~ ⁱⁿ ~~the~~ ^{among} the town of Smithfield formerly
belonging bequeathed by Thomas Smith deceased to the complainants
Frances, Sally, Elizabeth and Seline, and Jane Olive for
Jane Smith decd. by having regard to quality and
quantity - That they allot 1/5 to Joseph ~~and~~ ^{and} Seline
Joseph B. Whithead and Seline his wife, 1/5 to Robert Mott
and Frances his wife, 1/5 to Sally Smith, 1/5 to Elizabeth
Johnson and the remain 1/5 to Virginia Jane Olive
the Deft. and that they make report thereof to the Court
in order to a final decree -

To the Most Honorable Court of the High Writ County in England;

Being the father and natural Guardian of Virginia Jane
Olivier infant daughter of Jane Olivier deceased formerly Jane
Smith daughter of Thos Smith deceased of the High Writ
County, I do hereby certify that I am willing that the undi-
vided real estate belonging to Elizabeth widow formerly Ketel
Smith, Robert Mui and Francis his wife formerly Francis Smith,
Leapt B Whithead and Lillian his wife formerly Lillian Smith
and my daughter Jane Olivier — the daughter of Jane
Olivier deceased formerly Jane Smith, and Sally Smith
whose said property belongs to the Smiths of the High Writ at his death,
shall be sold or divided as may seem best to the Court, and the proceeds divided
according to their just rights. — Given under my
hand and seal this day of 1870.

Certs

Augustus Olivier (Seal)

Printed
in 3 parts
Oliver & Co
Long 6th 1818 -

West marriage bond

re Bill & Anst

(Oliver)

January 1817 Bill and
Anst filed & Entry decreed

March 1818 @ to amend same

Sept. 1810 rept. ad. & directed
accordingly

Pursuant to a decree of the worshipful court of
Isle of Wight County made in January court 1847
and hereunto annexed we the undersigned have made
partition amongst the devisees of Thomas Smith Dec.
of the undivided lands in & adjacent to the town of
Smithfield, in the following manner to wit: Portion
No 1 valued at \$116.66 to consist of the land lying a-
back of the town lots no: 43. 46. 47. 48 and the lane
between the town lots no: 44 & 45 and extending to the
little back creek; and have assigned the same to
Robert West and his wife Frances.

Portion No 2 valued at \$100 to consist of the town lot
No 23, which we have assigned to Augustus Olivier &
his daughter Virginia Olivier the heir of Jane
Olivier Dec.

Portion No 3 valued at \$120 to consist of the lands bou-
nded by an extension of the street or lane between
the town lots No 17 & 21 as far as the land conveyed
by Joseph B. Whitehead & wife unto James Atkinson
and included within the said extended street & the town
lots No 18 & 19 and the lands conveyed by the late Thos. Smith

to Dr David Dick and Joseph M^c Kennel and the lands conveyed by Jos. B Whitehead and wife to James Atkinson and we have assigned the same to Jos B Whitehead & wife. After extending the street or lane between the town lots nos 17 & 21 as far as the lands conveyed by Jos B Whitehead and wife to James Atkinson, we have divided into two portions the land below ~~below~~ the said extended street and bounded by it the town lots Nos 20, 22, 23 & the lands conveyed by the devisees of the late Tho^s Smith to Benjamin Drew, the little back creek, and the before mentioned land conveyed to James Atkinson; by a line drawn at right angles from the middle of the before mentioned extended street or lane and running to the little back creek, and we assigned Portion No 4 valued at \$66.66, it being that one which lies next to the town lots Nos 20 & 22 and the lands conveyed as before mentioned to Benjamin Drew, to Isham Jordan and his wife Sally. And we have assigned Portion No 5 valued at \$66.66, it being the one which lies next to the lands of James Atkinson, to Elizabeth Johnston.

And in order to equalize the portions amongst the parties to the average value of \$94, we have adjudged that Jos B Whitehead pay Isham Jordan \$26 and that Augustus Olivier pay him \$1.34 and ~~we~~ ^{have} adjudged that Robert West pay Elizabeth Johnston \$22.66, and that Augustus Olivier pay her \$1.34 given under our hands this 10th day of 1880.

Joseph Atkinson
Arthur Smith
James Atkinson

Isle of Wight County January Court 1817

Robert West & Fanny his wife, Joseph B. Whitehead
& Lillias his wife, Sally Smith and Elizabeth Johnston & Compt. In Chancery
against

Virginia Jane Olivier daughter of Lane Olivier decd. Defl.
formerly Lane Smith.

By consent of the parties and the assent of the court this cause came on this day to be heard upon the bill and answer filed; exhibits arguments of counsel whereupon the court doth adjudge order and decree that Joseph Atkinson Thomas Pardin and George Wilson or any two of them - appointed by the County Surveyor if necessary do divide into five equal shares, the undivided lands and lots in and around the town of Smithfield bequeathed by Thomas Smith decd. to the complainants Frances Sally, Elizabeth and Lillias and to Lane Olivier formerly Lane Smith decd. - having regard to quality and quantity - That they allot one fifth to Joseph B. Whitehead & Lillias his wife - one fifth to Robert West and Fanny his wife - one fifth to Sally Smith - one fifth to Elizabeth Johnston and the remaining one fifth to Virginia Jane Olivier the defendane - and make report thereof to the court in order to a final decree -

Isle of Wight County March Court 1818

Ordered that the foregoing decree be so amended as to make Isham Jordan a party thereto, and that James Atkinson & Arthur Smith be appointed commissioners in addition to those already appointed to carry the same into effect -

Copies To David Dick D.C.
off