

and suggests that inasmuch as the said petition of said Kunkel is *Ex parte*, no right can be settled by any proceeding which may be had thereunder the said Kunkel having failed to make any parties thereto but having availed himself of that mode of making unjust and untrue imputations on your petitioner and other parties whilst it affords neither to your petitioner nor other parties an opportunity of repelling said false imputations by an issue to be framed on and under said petition.

Inasmuch therefore as the said petition is *Ex parte* and initiates no issue with any party and the order passed by your Honor thereon is calculated to entail cost on the fund in which your petitioner is deeply interested and also delay in the ascertainment of the rights of your petitioner and the said Kunkel cannot be prejudiced in any respect by being admitted to the usual course of procedure by your Honorable Court for the ascertainment & protection of his rights whereby all parties concerned themselves interested can be fully heard upon their allegations and proof. Your petitioner prays your Honor to rescind & annul the said order passed by your Honor on the said 19th day of March 1859 and to order said cause to be referred to the auditor with directions and to state an account distributing the said proceeds of sale according to the usual practice of your Honorable Court and to grant to your petitioner such further & other relief as in Equity she may be entitled to and she will ever pray &c.

Wm J. Maulsby sol
for Petitioner

State of Maryland Frederick County, Md.
I hereby certify that on this 29th day of June 1859 before the undersigned Justice of the peace of said State in and for said County personally appeared Sophia Fitzhugh and made oath on the Holy Evangelists of Almighty God that the matters facts and things in the aforesaid petition contained are true as stated.

L. M. Hardings

Petition
By the Honorable Madison Nelson Judge of the Circuit Court for Frederick County sitting as a Court of Equity.
The Petition of Sarah Margaret Fitzhugh of Frederick County by her next friend John P. Fox of Baltimore City respectfully sheweth that she is a married woman and the wife of Peregrine Fitzhugh of the said County - that her husband died on the 10th day of October A. D. 1858 a certain Charles C. Trail of the said County filed in your Honorable Court