

No 4789 Equity

These Complainants further represent and charge that by the refusal of the Complainant John H Rutzahn to accept said devise and bequest aforesaid, and by virtue of the other provisions in said last will and testament, the said real estate described in Exhibit No. 1. vested in as tenants in common, your Complainant, John H Rutzahn, Lucinda F Rutzahn, Sarah J Rutzahn, and Amanda Catharine Rutzahn children of the said Eli Rutzahn deceased, share and share alike, that neither the said Malachi C Rutzahn nor the said Simon D Rutzahn other children of the said Eli Rutzahn deceased, have any title or interest therein and that the said May A Rutzahn as the widow of the said Eli Rutzahn deceased has no interest in said real estate, because of the devise and bequests of other real and personal estate made to her in the said last will and testament of her said husband, which were made to her in full satisfaction and lieu of any dower or marital rights she might have in the real and personal estate of her said husband.

These Complainants further represent and charge that at the time of his death, the said Eli Rutzahn was largely indebted and that his personal estate is insufficient to pay his debts. These Complainants further represent and charge that there is a great doubt, as to the powers of the Executors aforesaid under the provisions of said last will and testament with reference to the lands described in Exhibit No. 1. and that it is believed that they have no power under said last will and testament to make sale of the same, and that if they attempted to do so under the present uncertainty the said lands would not bring a fair price, and would be greatly sacrificed, and these Complainants charge that there is no power of sale in the said last will and testament of the said Eli Rutzahn deceased, authorizing and empowering the executors thereof to make sale of the real estate described in Exhibit No. 1. that said real estate is not susceptible of division among those entitled thereto, without great loss and damage and that it would be to their advantage to have the same sold and the proceeds divided among them according to their respective interests.

To the end therefore that the said May A Rutzahn, Malachi C Rutzahn, Simon D Rutzahn, Lucinda F Rutzahn, Sarah J Rutzahn and Amanda Catharine Rutzahn may answer the matters and things hereinbefore stated, and that said real estate described in Exhibit No. 1. may be sold under the decree of this Honorable Court and that the proceeds may be applied to the payment of whatever debts of the said Eli Rutzahn, deceased, remaining unpaid and also be divided among your Complainant John H Rutzahn and his three sisters Lucinda F, Sarah J and Amanda Catharine Rutzahn share and share alike, and that your Complainants may have such other relief in the premises as the nature of their case may require.

May it please your Honors to grant unto your Complainants the writ of Subpoena directed to May A Rutzahn, Simon D Rutzahn, Lucinda F Rutzahn, Sarah J Rutzahn, and Amanda Catharine Rutzahn of Frederick County Maryland, commanding them and each of them to be and appear in your Honorable Court on a day to be named therein to answer the premises and to abide by and perform such decree as may be passed therein. And may it further please your Honors to grant unto your Complainants and order of publication giving notice to the said non resident Malachi C Rutzahn of the object and substance of this Bill of Complaint and warning him to be and appear in your Honorable Court on or before a certain day, to answer the premises and abide by and perform such decree as may be passed therein. And as we duty bound they will ever pray &c.

Filed May 6th 1882.

Mott & Gilpin
Solicitors for Complainants