

No. 5043 Equity

and to pay off all indebtedness of said testator and at her death the Executors therein named are empowered to sell and convey the residue if any, and to distribute the proceeds amongst the seven children of the said Joseph Gaver share and share alike, as follows: To Jane Rebecca intermarried with J. H. Michael; to George W. Gaver; to Malinda C. intermarried with Albert F. Fry, to O. J. Gaver, to Jeremiah A. Gaver, to Charles B. Gaver, to Joseph W. Gaver.

5th. That the said Mary A. Gaver has filed in the Orphans Court of Frederick County her renunciation of the provisions of said will and has elected to take in lieu thereof her dower or legal share of the estate of her said husband a certified copy whereof is herewith filed marked Exhibit No. 7.

6. That since the said renunciation of the said Mary A. Gaver there is no one authorized and empowered under said will to sell and convey the said real estate and to pay off the Claims of your orator and the other Creditors of the said Joseph Gaver until after the death of the said widow.

7. That letters testamentary on the personal estate of the said Joseph Gaver have been granted by the Orphans Court of Frederick County to O. J. Gaver Charles B. Gaver and Joseph W. Gaver the Executors therein named as will appear by an exemplification of said letter herewith filed marked Exhibit No. 8.

8. That the said Executors have possessed themselves of the said personal estate and the same is largely insufficient to pay all the just debts now due and which were owing by the said Joseph Gaver at the time of his death and your orator and the other Creditors are entitled to have their claims paid out of the real estate now in the hands of the said devisees legates and heirs at law herein named.

9. That the said Joseph Gaver at the time of his death left surviving him a widow named Mary A. Gaver and the following children viz: a daughter, Jane R. Michael now the wife of James H. Michael; a son George W. Gaver whose wife's name is Susan; a daughter Malinda C. Fry now the wife of Albert F. Fry; a son O. J. Gaver whose wife's name is Kate; a son, Jeremiah A. Gaver; a son, Charles B. Gaver and a son Joseph W. Gaver who are the same persons named as devisees, legates and Executors in the will aforesaid.

10. That all of said parties are adults over twenty one years of age and all reside in Frederick County except Jane R. Michael and her husband and Malinda C. Fry and her husband who reside in Washington County Maryland and Jeremiah A. Gaver who is a non resident of the State of Maryland and who when last heard of was a resident of the territory of Montana, one of the territories of the United States.

11. That the said Joseph Gaver during his lifetime executed to one Margaret C. Schaffer of Frederick County a mortgage upon the real estate described in Exhibit No. 1. for the sum of twenty two hundred dollars a certified copy of which is herewith filed marked Exhibit No. 9.

12. That said mortgage is now due and remains unpaid as to the principal sum and interest thereon from the ninth day of September 1854.

And your orator prays for the following relief

1. That a decree may be passed by your Honorable Court for the sale of said real estate or of so much thereof as may be necessary
2. That the said mortgage debt and the interest due on said mortgage held by the said Margaret C. Schaffer may be paid out of such proceeds of sale after first paying the expenses and commissions attending the same and for making said sale
3. That the residue of said proceeds of such sale may be distributed under the

Exhibit