

No. 5264 Equity

Horace H. Smith a Witness, of Lawful age produced on the part of the Plaintiff being duly sworn, and examined viva voce, deposes, and says as follows. -- My name is Horace H. Smith, my age 32 years, and I reside in Frederick County, I know all the parties to this suit, and have known them for a number of years I knew William Smith late of Frederick County, deceased He was my father. He is dead; he died, on January 13, 1887, in Frederick County, and he died without a Will. He died seized and possessed of about twenty three acres of Land lying and being in Frederick County. It is the same land described in Exhibit No. 1 now shown me, excepting therefrom, an acre and three quarters of land more or less, conveyed by the said William Smith in his lifetime to Horace H. Smith (present Witness), or such deed is duly recorded, and half an acre, more or less, conveyed by him to the Methodist Church, and three quarters of an acre, more or less, conveyed by him to George W. Coleging. The said William Smith left, at his death, a widow Elizabeth Smith who is now living, and the following children, as his heirs at law, -- (1) A son Adam J. Smith, (2) A son Louis E. Smith whose wife's name is Anna A. Smith (3) a son Henry E. Smith, (4) A daughter, Mary Jane Shaw who is the wife of David L. Shaw (5) A son Mahlon H. Smith whose wife's name is Martha (6) A son, William E. Smith whose wife's name is Laura Smith (7) A Daughter, Annan M. Wachter who is the wife of Caleb Wachter (8) A son Horace H. Smith (present witness) whose wife's name is Clara M. Smith (9), and a grand-child Roy Smith, a son of Anne M. Smith who is a deceased daughter of the said William Smith, All of said parties are residents of Frederick County Md except Mahlon H. Smith and Martha Smith who are non residents of Maryland, and reside in the State of Ohio, and all of said parties are adults except the grand-child Roy Smith who is an infant under twenty - One year of age, The said Real Estate is not capable of being divided among the parties without loss and Injury because the Tract of Land is too small to be divided among so many people, and is not capable of partition on account of its Location, without loss and Injury - I think it will be to the Interest and advantage of all the parties, Infant as well as adult, to have the same sold, and the proceeds divided for the reasons given by the previous Witness -

Testimony

To the Hon. Jnt by the Examiner -
 Says = I know of nothing further
 George H. Smith.

Whereupon there being no other Witnesses to be examined, and no further time being required for the production of evidence, the said Examiner hereby certifies that the foregoing are the Original Depositions in this cause as the same were read over to the Witnesses and signed by them respectively, and I herewith return the same enclosed to the Court.

Witness my hand this 8th day of February A. D. 1887.
 Clayton O. Keady - Examiner
 Costs of the foregoing Testimony
 C. O. Keady Exam. Fee (1/2 day) - \$6.00.
 Certified to - Clayton O. Keady, Examiner