NO. 8037. Equity.

Order of Publication

Filed June 16-1906

Richard Heater vs Sarah Jane Williams and John H. Williams her husband, et al

This is to give notice to Sarah Jane Williams and John H. Williams her husband; Annie Russell and Harry Russell her husband; Mary Russell and William Russell her husband; and Charles Williams and Ollie Williams his wife, and John E. Rust mortgagee of Sarah Jane Williams and John H. Williams non-residents defendants, in the above entitled Cause of the substance and object of the Bill of Complaint and petition as filed in the Cause. The Bill alleges that John Heater late of Loudoun County and State of Virginia died about in year 1870, intestate, seized and possessed of certain real estate in Frederick County, Maryland, which he obtained by deed from William H. Miller trustee in No. 1938 Equity docket June 11th A.D. 1856, and recorded in Liber B.G.F. No. 1, folio 170 one of the land records of Frederick County, aforesaid; and that by the last will and testament of the said John Heater the said land was devised in undivided halves to his daughter Sarah Jane Heater for life with remainder over to her children and to his son George H. Heater the other undivided one half in fee. That the said Sarah Jane Heater intermarried with John H. Williams, and the issue born of said marriage are the defendants to adult daughter Annie whose husband's name is Harry Russell; an adult daughter Mary whose husband's name is William Russell and an adult son Charles Williams whose wife's name is Ollie Williams; and that the said Sarah Jane and John H. her husband; and Annie and Harry her husband; and Mary and William her husband and Charles and Ollie his wife the defendants in this cause are the life tenants and remaindermen respectively under said devise in said Will in an undivided one half of said real estate. And that the said John E. Rust is the mortgagee of said Jane Williams and John H. Williams her husband of their interest in the land mentioned in said Bill and Petition. That the complainant Richard Heater is the owner by purchase of George H. Heater's undivided one half of said tract of land. And that the complainant and the defendants are tenants in common as to the ownership of said tract of land. That said Sarah Jane Williams and John H. Williams; Annie Russell Mary Russell and William; Charles Williams and Ollie Williams and John E. Rust Mortgagee are non-residents of the State of Maryland residing in Loudoun County in the State of Virginia and that any of the said non-residents defendants, and adults, that said land cannot be divided among the respective claimants entitled without loss and injury and that it would be to the benefit and advantage of all parties to have same sold under a decree of Court and the proceeds of sale divided. The Bill then prays for a decree for the sale of said land and for general relief. It is thereupon adjudged and ordered this 16th day of June 1906, that the complainant by causing a copy of this order to be inserted in some newspaper published in Frederick County, once a week in each week of four successive weeks before the first day of July, A.D. 1906 give notice to said absent and non-resident defendants of the object and substance of the Bill filed in this cause and every thing and each of them to be and appear in this Court in person or by solicitor on or before the 6th. day of August A.D. 1906 to answer the premises and show cause if any they have why a decree ought not to pass as prayed.

Samuel T. Hoffner
Clerk of the Circuit Court for Frederick County, Maryland.

P. F. Pennifill
Albert S. Brown
Solicitors.

Printers Certificate.

Frederick, Md, Oct. 26, 1906.

We hereby certify that the annexed Order of Publication No. 8037. Equity was published in the Daily Post a newspaper published in Frederick County, State of Maryland, for four successive weeks prior to the 1st. day of July, 1906.

Baughman Bros.

Order to enter Special appearance of Glenn N. Worthington for defendants.

Filed Aug 6-1906.

The Clerk will please enter my appearance in the above entitled Cause for the defendants, specially to object to the jurisdiction of the Court, and the sufficiency of the order of Publication to confer such jurisdiction

Glenn N. Worthington
Solicitor for defendants for the purpose of excepting and objecting as aforesaid.

Exceptions of Defendants to Jurisdiction of the Court. For defects in the order of Publication

Filed Aug- 20-1906.

To the Honorable the Judges of Said Court:

The defendants in the above entitled Cause, waiving All Manner of exceptions to the Bill of Complaint filed against them in said cause as to its sufficiency in law, for want of proper parties, joinder of improper parties, and all other defects therein, save exceptions as to the sufficiency of the order of Publication, and all other matters of form and matter of form, and all other matters and things, except to the merits of the said Bill of Complaint, make, show, and suggest to your Honors that the order of Publication is defective and insufficient to bring the said Court, for the reason that said order of Publication sets forth, that said Sarah Jane Heater, now Sarah Jane Williams, has a life estate in the property in question with remainder to her children; whereas the bill sets forth that the land was to her and her brother George equally; but should the said Sarah Jane die without issue, her share of my father's property should be divided equally between my living sisters, that is, the heirs of my father John Heater. Thus she has quite a different estate from that set forth in the Bill of Complaint from that set forth in the order of Publication. As your exceptants respectfully submit that therefore they are entitled to the judgment of your Honorable Court as to whether they have been legally and properly notified of the pendency of such a suit as that set forth in the Bill of Complaint, and if the substance and object of the said Bill are sufficiently set forth in said order of Publication, and further your Honors have jurisdiction to proceed further under said order of Publication and for such general relief as they may be entitled to in the premises. And as in duty bound etc.,

Glenn N. Worthington
Attorney for the defendants for the purpose of objecting to the jurisdiction of the Court.

Courts Order

In my judgment the order of Publication is sufficient. It is therefore on this 27th day of December in the year 1906, ordered, decreed by the Circuit Court for Frederick County, sitting as a Court of Equity, and the authority thereof that the defendants exceptions to the jurisdiction of said Court be and the same is hereby overruled.

John C. Motter.

Filed December 27-1906