

valuable consideration without notice. Whereupon he prayed, that the shares of the intestate's estate so assigned to him might be directed to be paid to him accordingly. These three several deeds of assignment were each of them acknowledged and recorded as required by law; and were besides proved to have been executed by the grantors. It appears, that Basil D. Mullikin applied for the benefit of the insolvent laws on the 30th of May, 1825; that Regnal Mullikin applied for the benefit of the insolvent laws on the 18th of May, 1827; and that Baruch Mullikin made a similar application on the 8th of May, 1828; but it is admitted that Benjamin H. Mullikin never made any such application. Whereupon it was ordered, that the matter stand for hearing provided a copy be served, &c. After which it was brought before the Court, and the solicitors of the parties were fully heard.

BLAND, C., 4th March, 1829.—There is no principle of equity or justice upon which Basil D. Mullikin, Baruch Mullikin, Regnal Mullikin, Benjamin H. Mullikin, or Nicholas Woodward, or any one claiming under them, or any or either of them, by virtue of any assignment or transfer made since the institution of this suit, can be allowed to receive any thing from this Court until they have paid or brought in all sums of money for which * they are **543** liable as principals or sureties, or until all the other heirs of the intestate have been fully satisfied and paid from the proceeds of the sale of the intestate's estate now in the hands of the Court, or under its control for the purpose of distribution.

Whereupon it is ordered, that this case be and the same is hereby referred to the auditor with directions to state an account accordingly, distributing the proceeds of the sale of the intestate's estate now remaining under the control of the Court; first among the heirs of the intestate who have not been paid, or in so far as they have not been satisfied; and the balance if any to the petitioner Daniel Kent, as the assignee of Basil D. Mullikin, Baruch Mullikin and Regnal Mullikin; and to Benjamin H. Mullikin and Nicholas Woodward: provided it shall appear, that they have each of them paid or brought into Court all sums of money, being portions of the said intestate's estate which they or either of them as trustee, purchaser or surety ought to have paid or brought into Court, or for which they or either of them is liable because of its not having been so brought in or paid. But as there has been an appeal from the decree of the 25th of June, 1828, directing the land purchased by Anderson to be sold for the payment of the purchase money due from him, the disposition of that amount must be suspended until that appeal has been finally determined; and consequently so much of this case as is affected by that appeal cannot be embraced in the statements contemplated by this order.