

1
2
3
4

Just him as it shall be manifest that hee shall have over forred the said Rigby as the Court in their Discretion shall thinke fitt

First the Judgment is manifestly Erroneous in this, that the said Judgment w^{ch} saith that the said Downe came into the County without an Indenture is apparently false, for that the said Phillipps mentioned in his Oath that hee was an Indentured & disputes about an Indenture

Secondly it is apparent by the Indenture it selfe produced to the County Court & ready to be produced to the Court here that hee is nothing stratched out nor the words thereof as by Deposition is said, written above it, and for the said Deposition untrue, & the Judgment grounded upon that Oath made without proofe

Thirdly that the said William Downe was not legally summoned to appeare at the said County Court nor permitted to make his Just defence by his Attorney, but Judgment illegally passed against him undefended

Fourthly the cause is proper to be tried in the said Court ought to have beene tried by a Jury at shire, Indentured or noe Indentured

Fifthly the Court of Chancery in the County Court have noe authority to hold plea of any Justt action about the Validity or invalidity of the Indenture aforesaid, and for the cause was Coram non Jure, Chancery therefore has prayed the Judgment of the County Court aforesaid may be reversed, & had for nothing, Chancery that the said William Downe to all things by him sustained, by reason of the Judgment aforesaid, may be restored

The answer of James Rigby to the reasons exhibited by William Downe why hee did appeal from the Judgment of the County Court of Chancery County

1
2
3
4
5

that the Judgment w^{ch} saith that the said Downe came into the County without an Indenture is good for that an Oath taken, Indentured an Intention, false fraudulent Writing taken an Indenture is noe Indenture in Law but is voyde and Nullity

It is apparent by the testimony of Sam^l Phillipps that the word in the right line, w^{ch} is & was supposed to be (four) was stratched out and the words three intencions, and now the words three w^{ch} was intencions, is stratched out from between the lines and put into the right line where the first word was stratched out, and soe it is plainly evident that the pretended Indenture has bene twice stratched, and Defaced therefore voyde w^{ch} James Rigby is ready to make more plainly appeare by further evidence

That William Downe had two Attorneys viz M^r Parker and M^r Haughay therefore that allegation false

The Cause was proper to be tried in the County Court and not proper to be tried by a Jury the Commissioners being authorized therunto by Act of Assembly

The Commissioners as is aforesaid have sufficient authority by Act of Assembly to Judge of for want of time and the Validity of the Indenture as by the Act in that case made more at large appeareth

The promised restitution James Rigby prays that the Court will consider of the amount of the w^{ch} matter and that Downe and his wife may be ordered to serve the full time of foure yeares and that they may make good the time they have absent from thire or either of thire service according to the water allowed by the Law in such cases viz ten dayes for one, Chancery may also by service make good the said James his costs & charges, that by the unjust complaint William Downe had had sustained

That James Rigby was never summoned on had any legal notice to make his Defense in the Court and can make every particular most plainly appeare if hee may have time to be next Court

Which Records protested, reasons and answers to the reasons aforesaid beinge seen and heard and by the Justices here fully understood, and diligently examined, and for that it appeareth to the said Justices, that in the Records and protest aforesaid, as also in the reading the Judgment aforesaid, it is manifestly Erroneous, therefore it is considered by the Court here this day to witt the sixteenth day of February in the fifth yeare of the Dominion of the Right hon^{ble} Charles Lord Baltmore of Chancery Downe Que^{ens} Bench and Sir Hugh Dore, Seventy nind that the Judgment of the County Court of Chancery County

(County)