

STATE OF SOUTH CAROLINA.
County of Fairfield.

In The Court Of Common Pleas.

Thomas E. Dye, Jemima Crowder, John E. Beam,
Elijah Beam, Sarah J. Weir, Mary E. Peay, Martha Mobley,
William Hoopough, Elizabeth Weir, Julia Ann Dye,
H. Adilla Darby and Elisabeth S. Bradford,
Plaintiffs.

Against

Beaver Creek Church, L. A. C. Estes, W. H. Banks, M. C. Stone,
and C. S. ^{Porter} Robinson, as Deacons, and William S. Durham, as Clerk,
of said Beaver Creek Church,
Defendants.

The plaintiffs above named complaining of the above named defendants allege:

- I-That the defendant, Beaver Creek Church, is an unincorporated association, in the County and State aforesaid, under the jurisdiction of the Baptist Church or denomination; that the defendants, L. A. C. Estes, W. H. Banks, M. C. Stone and C. S. ^{Porter} Robinson, are members and Deacons of said Beaver Creek Church, and William S. Durham, above named, is a member and the Clerk of said Beaver Creek Church; and as such members and Deacons, and Clerk, they are made defendants to this action on behalf of themselves and all other members of said Church, the said members being too numerous, for practicable purposes, to be ~~joined~~ joined as parties defendant to this action.
- II-That John Dye, late of the County and State aforesaid, departed this life on or about the day of December 1854, being seized and possessed of the following tract or parcel of land to wit, all that certain piece, parcel or tract of land lying, being and situate in the County of Fairfield and State aforesaid, containing one hundred and twenty seven and one half acres more or less, and being bounded by lands on N. C. McLurkin, Jacob Stone and S. Gladden.
- III-That the said John Dye, deceased, left a last will and testament, which was duly admitted to probate and filed in the then Court of Ordinary, for the then District of Fairfield, on the 12th. day of December 1855.
- IV-That in and by said last will and testament, the said testator, after providing for the payment of all his lawful debts, disposed of his property in and by the following words to wit: "all the balance of my personal and real estate, I give and bequeath to my beloved wife, Tabitha Dye, for her to dispose and live on during her life time, and if there is any thing at her decease after left after her decease & burial, I give and bequeath to the beaver Creek Church for poor children for their tuition."
- V-That the said Tabitha Dye, the life tenant, departed this life on or about the day of 1890, without having made any disposition of said tract or parcel of land.
- VI-That the plaintiffs are informed and believe that the attempted devise of the remainder in said property to the defendant, the Beaver Creek Church, is null and void, because the same is too vague, remote, indefinite and uncertain, and is incapable of being enforced at law or in equity; and that, as to said remainder, after the life estate aforesaid, the said John Dye, deceased, died intestate.
- VIII-That the said John Dye, deceased, died without leaving any lineal descendants and the plaintiffs are the only surviving heirs at law

of the said John Dye, deceased, being his nephews and neices of the whole blood.

VIII-That, as such heirs at law, the plaintiffs are seized in fee simple as tenants in common, of the tract of land hereinbefore described, and they have estates of inheritance therein as follows: Thomas E. Dye, Jemima Crowder and John E. Beam, each fifteen one hundred and twenty undivided hundredth parts thereof in fee; Martha Mobley, thirty one hundred and twenty undivided hundredth parts thereof in fee; Elijah Beam, Sarah J. Weir and Mary E. Peay, each five one hundred and twenty undivided hundredth parts thereof in fee; and William Hoop- augh, Elizabeth Weir, Julia Ann Dye, Elizabeth S. Bradford and H. Adil- la Darby each six one hundred and twenty undivided hundredth parts thereof in fee.

IX-That the plaintiffs own no other lands in this State, as tenants in common; and they are desirous of a partition of the aforesaid tract or parcel of land, in order that they may enjoy their respective in- terests therein in severalty.

X-That the defendants are unlawfully in possession of said tract of land, claiming title thereto, and unjustly with hold possession of the same from the plaintiffs, to the damage of the plaintiffs in the sum of one hundred dollars.

XI-That both the plaintiffs and the defendants claim title to said tract or parcel of land under and through the said John Dye, deceas ed, as a common source of title.

WHEREFORE, the plaintiffs demand judgment:

1. For the recovery of the possession of said tract of land from the defendants, together with the sum of one hundred dollars, their damages for the unlawful with holding said land.

2. For a partition and division of said land, if practicable; or in case the same cannot be partitioned without injury to the rights of some of the parties, then for a sale of said tract of land and a division of the proceeds, after the payment of the costs and ex- penses of this action, according to their respective rights and in- terests as they may be determined by this Court.

3. For such other and further relief as may be just and proper in the premises.

4. For the costs of this action.

J. C. McDonald
Plaintiffs' Attorney.

A. D. 1897

Plaintiffs' Attorney.