

585

R. F. POWELL,

Complainant,

vs

ELIJAH BISHOP,

Defendant.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA.

No. 585

IN EQUITY

Comes the complainant in the above styled cause and moves that said cause or suit be dismissed without prejudice.

Gordon Edington & Lough
SOLICITORS FOR COMPLAINANT

Handwritten notes in left margin:
R. F. Powell
Elijah Bishop

Handwritten notes in center margin:
Motion
Dismissed
without prejudice

No. 585 In Equity

R. F. Powell
vs

Elizabeth Bishop

Motion to dismiss
without prejudice

Filed Sept 18, 1924.
T. W. Reardon
Register

(10)

STATE OF ALABAMA,

BALDWIN COUNTY.

KNOW ALL MEN BY THESE PRESENTS, that we, R. F. Powell as principal, and Lucy Group Custon and Ed J. Green as sureties, are held and firmly bound unto Elijah Bishop in the sum of Six Hundred (\$600.00) Dollars, for the payment of which we bind ourselves, our executors and administrators jointly and severally.

Sealed with our seals and dated this the 1st day of May, 1926.

The condition of the above obligation is such that whereas the above bounded R. F. Powell has filed his bill of complaint on the Equity side of the Circuit Court of Baldwin County, Alabama, and has obtained thereon an order from the Honorable John D. Leigh, Judge of said Court for the issuance of an injunction to restrain and enjoin the said Elijah Bishop from cutting on or into any of the pine trees standing upon those certain lands situate in the County of Baldwin, and State of Alabama, and described as the North Half of the Southeast Quarter of Section 19, Township 6 South, of Range 3 East, and from working and using said pine trees for turpentine or any other purpose, and from taking, extracting and removing the resin, turpentine and all other naval stores products from said trees, or any of them, from doing injury or damage to any of said trees, and from molesting or interfering with any and all of said trees in any manner or form whatsoever:

NOW if the said R. F. Powell, his heirs, executors, administrators, or any of them, shall pay or cause to be paid all damages and costs which any person may sustain by the suing out of said injunction if the same is dissolved then the above obligation shall become void, otherwise shall remain in full

force and effect.

Witness our hands and seals on the day and year first
above written.

R. F. Powell SEAL

Joy Trump Presto SEAL

E. J. Green SEAL

Taken and approved this the 12 day of May 1926.

M. W. Richardson
Register

The State of Alabama, }
Baldwin County.

CIRCUIT COURT OF BALDWIN COUNTY,
IN EQUITY.

To any Sheriff of the State of Alabama—GREETING :

WE COMMAND YOU, That you summon Elijah Bishop

of Baldwin County, to be and appear before the Judge of the Circuit Court of Baldwin County, exercising Chancery jurisdiction, within thirty days after the service of Summons; and there to answer, plead or demur, without oath, to a Bill of Complaint lately exhibited by

R.F. Powell,

against said

Elijah Bishop,

and further to do and perform what said Judge shall order and direct in that behalf. And this the said Defendant shall in no wise omit, under penalty, etc. And we further command that you return this writ with your endorsement thereon, to our said Court immediately upon the execution thereof.

WITNESS, T. W. Richerson, Register of said Circuit Court, this 12th day of

May 1926.

T. W. Richerson Register.

N. B.— Any party defendant is entitled to a copy of the bill upon application to the Register.

...
SERVE ON
Circuit Court of Baldwin County
In Equity.

No. _____

SUMMONS

R. P. Powell,

vs.

Elijah Bishop

Rec'd copy on

Elijah Bishop

Gordon, Edgingto & Leigh.

Solicitor for Complainant

Recorded in Vol. _____ Page _____

THE STATE OF ALABAMA,
BALDWIN COUNTY.

Received in office this _____

day of _____ 192_____

Sheriff.

Executed this 13th day of

May 1926.

by leaving a copy of the within Summons with

Elijah Bishop

Defendant.

W. R. Stuart

Sheriff.

By _____

Deputy Sheriff.

RECORDED

TO THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA, AND TO THE
HONORABLE JOHN D. LEIGH, JUDGE OF SAID COURT,
SITTING IN EQUITY:

Your orator, R. F. Powell, brings this his bill of complaint against Elijah Bishop, and respectfully shows unto the Court and to your Honor:

1. That orator is over the age of twenty-one years, and resides in the County of Baldwin, State of Alabama; that the said Elijah Bishop is over the age of twenty-one years, and resides in the County of Baldwin, State of Alabama.

2. That orator own, and has the legal title and has owned and held the legal title continuously, since, to-wit, March 15, 1918, to that certain piece or parcel of land, situate in the County of Baldwin, State of Alabama, and described as the North Half of the Southeast quarter of Section 19, Township 6 South of Range 3 East.

3. That on, to-wit, January 1st, 1926, the defendant, Elijah Bishop, wrongfully and without orator's consent, entered upon and took possession of the land above described, and soon thereafter began to work and use, and wrongfully continues without orator's consent to work and use, the suitable pine trees thereon for turpentine purposes. That said land is valuable chiefly for the pine trees thereon and the products derived from said trees in working and using them for turpentine purposes; that in working and using said trees for turpentine purposes cuts are made therein, portions of the bark removed therefrom and turpentine cups and aprons are fastened thereto; that such work and use results in great injury or damage to said trees and the longer said trees are so worked and used the higher up are the cuts made thereon, the greater is the amount of bark removed therefrom and greater is the injury and damage done thereto; that the said Elijah Bishop is wholly insolvent and cannot be made to pay or respond in damages in any suit orator may bring at law against

him for the recovery of damages, and unless he be immediately enjoined from further cutting on or into any of the pine trees standing upon the above described land, from working and using said trees for turpentine or any other purpose, from taking, extracting and removing the rosin, turpentine and other naval stores products from any of said trees, from doing any injury or damage to any of said trees, and from molesting and interfering with said trees in any manner or form whatsoever an irreparable injury and damage will be done your orator.

4. That on, to wit, the 21st day of April, 1926, orator brought his suit of ejectment in the Circuit Court of Baldwin County, Alabama, against the said Elijah Bishop to recover possession of the above described land, which suit is still pending and orator expects to prosecute the same to final conclusion with all reasonable speed and diligence.

PRAYER FOR PROCESS

Wherefore, the premises considered, your orator prays that the said Elijah Bishop be made party defendant to this bill of complaint and the usual process of this Honorable Court be forthwith issued to him, commanding him to appear, answer, demur or plead to this bill of complaint within the time provided by law and under the rules and penalties of this Honorable Court.

PRAYER FOR RELIEF

Orator further prays that a preliminary writ of injunction be forthwith issued to and against the said Elijah Bishop enjoining and restraining him from cutting on or into any of the pine trees standing upon the above described land, from working and using said trees for turpentine or any other purpose, from taking, extracting and removing the rosin, turpentine and all other naval stores products from said trees or any of them, from doing any injury or damage to any of said trees, and from molesting or interfering with any and all of said trees in any manner or form whatsoever until further orders of this Court, and that upon a final hearing of this cause said

injunction be made permanent and perpetual.

Orator further prays for such other, further different and general relief as in equity and good conscience he may be entitled to receive in the premises.

R F Powell

Complainant.

Boyd E. ...
Solicitors for Complainant.

STATE OF ALABAMA,
COUNTY OF MOBILE.

Before me, Jamie McDavid, a Notary Public in and for said County, in said State, this day personally appeared, R. F. Powell, who being by me first duly and legally sworn, deposes and says that he signed the above and foregoing bill of complaint, and knows the contents thereof and all the facts and statements therein set forth are true and correct. *R F Powell*

Sworn to and subscribed before me this the 30 day of April, 1926.

Jamie McDavid
Notary Public, Mobile County, Alabama.

STATE OF ALABAMA,
COUNTY OF BALDWIN.

TO ANY SHERIFF OF THE STATE - GREETING: We command you that without fail you execute this writ and due return thereof make to us instanter at the next term of our Circuit Court in Equity to be held in the town of Bay Minette, County of Baldwin, State of Alabama:

To Elijah Bishop - Greeting:

Whereas, one R. F. Powell has exhibited his bill of complaint in the Circuit Court of Baldwin County, Alabama, in Equity, and has obtained from the Honorable John D. Leigh, Judge of said Court, an order for the issuance of an injunction to restrain and enjoin you as hereinafter mentioned; and,

Whereas the said R. F. Powell has, in accordance with said order, entered into bond with surety in the sum of Six Hundred Dollars (\$600.00) payable to you and approved by the Register of said Circuit Court and conditioned according to law.

Now therefore you, the said Elijah Bishop, are hereby commanded and strictly enjoined from cutting on or into any of the pine trees standing upon those certain lands situate in the County of Baldwin, and State of Alabama, and described as the North Half of the Southeast Quarter of Section 19, Township 6 South, of Range 3 East, and from working and using said pine trees for turpentine or any other purpose, and from taking, extracting and removing the rosin, turpentine and all other naval stores products from said trees, or any of them, from doing injury or damage to any of said trees, and from molesting or interfering with any and all of said trees in any manner or form whatsoever until further orders of this Court.

Witness the hand of the Register and the seal of the said Circuit Court in Equity this the 12 day of May, 1926.


REGISTER

R.F. Powell, Complainant.) In the Circuit Court of Baldwin
County, Alabama, In Equity.
vs
Elijah Bishop, Defendant.)

Now comes Elijah Bishop and for answer to the Bill of complainant filed in said court by R.F. Powell against this defendant and says:

1. Defendant admits the first paragraph of the Bill as being true and correct.

2. Defendant denies that Complainant own the legal title to the land which is described as the North Half of the Southeast Quarter of Section 19, Township 6 South of Range 3 East, situated in Baldwin County, Alabama.

3. This defendant is the owner of said lands and through means conveyances has been in the peaceable possession of the same for more than twenty years last passed; and all the while paying taxes thereon and exercising acts of ownership over said lands, and which possession has been open, continuous, notorious, peaceable and under claim of right; Defendant avers that Mary Ann Bishop, who is now dead, and has been for a great many years last passed, acquired ownership of said lands by a deed of conveyance made to her by W.H. Stapleton and Mollie Stapleton his wife in the year 1915, which said conveyance was recorded in the Probate office of Baldwin County, Alabama, on June 7th, 1915. That prior to this time, the tax records of Baldwin County show that one Martin Lowell, owned said lands and paid the taxes and exercised acts of ownership thereon from the year 1880, to the year 1884, and that after his death his widow C.S. Lowell, assessed and paid the taxes thereon and exercised acts of ownership over the same from the year 1885 to and including the year 1897 and that said parties were in the open, notorious, continuous, and peaceable possession of said lands during all of said years. That in the year 1898 C.S. Lowell, assessed said land for taxation that year but did not pay the taxes thereon and being sold for taxes that said lands in the year 1899 were bought in at tax sale by the said W.H. Stapleton, that on April 4th, 1911, said Mary Anna Bishop and her husband William Bishop made a conveyance of said lands to Hattie Bishop, from whom the defendant claims title by conveyance made to him by the said Hattie Bishop, and other heirs of Mary Ann Bishop on to wit: December 17th, 1925 and under which said deed defendant went in to possession of said lands and is still in possession of same, exercising ownership over the same, That from April 4th, 1911, the said Hattie Bishop was through her own right and through agents in the open, notorious, continuous and peaceable possession of said land for more than ten years and under claim of right, and all the while paying taxes thereon and exercising acts of ownership over the same.

4. That Mary Ann Bishop, aforesaid departed this life in the year --- but prior to her death she conveyed the said property by a good and sufficient conveyance to the said Hattie Bishop, to wit: April 4th, 1911, and that said Hattie Bishop has owned said property ever since up to December 17th, 1925 when she made a conveyance of the same to this defendant.

And now fully answered Defendant prays that the writ of injunction heretofore issued in this cause be now abated and made of no effect and this defendant further prays that this bill of Complaint heretofore filed in this cause be now dismissed and that this defendant be allowed to go hence with his reasonable cost.

J. J. Jenkins
Attorney for Defendant