question in this cause as he shall be advised. And the consideration of costs and of all other directions are reserved until after the determination of such proceedings at Law, or in such proceedings be had, until after such time shall have expired. And in either case, the parties are at liberty to apply to this Court for further directions as to her shall be deemed.

W. G. Stokes.

Appearances to Act in the 19 day of December in the year of our Lord 1857 the said Complainant by his Solicitor aforesaid filed in said cause the following petition & Affd.

Henry S. Mitchell
vs
Sarah E. Mitchell

To the Honorable W. G. Stokes Judge of the Second Court for Baltimore City.

The Complainant Respectfully shows that in the decree in the Order of this Court passed in the cause on the 27 day of November 1856 he instituted his action of Trespass in the Superior Court of Baltimore City against the Defendant for a recovery of the premises in the proceedings in this cause mentioned. Where the said cause is still depending. Your petitioner being unable without any defence on his part to bring the same to trial.

He therefore Humbly prays that this cause may be returned by your Honor until he can have his aforesaid action at Law tried and determined.

Thos Alexander for Complt

Which being read and heard the Court passed the following order Dec. 10th 1857 Ordered that the prayer of the foregoing Petition be and is hereby granted

W. G. Stokes.

State of Maryland City of Baltimore set

I William H. Farmer Clerk of the Second Court for Baltimore City in the Fifth Judicial Circuit of the State of Maryland do hereby certify that the aforegoing is a true and faithful transcript of the Record of proceedings of the said Court in the cause therein mentioned as far forth as the same has proceeded.

Witness my hand and seal of the said Court for Baltimore City this 10 day of December in the year of our Lord 1857.

(Seal)

W. H. Farmer Clk of the Second Court

And proved that said premises are of the annual value of Twenty dollars, and no more, which cannot be divided to be received by necessary and legal subpoenas, costs and expenses.

And thereupon the said plaintiff by his Counsel prayed the Court to instruct the Jury.

That if the Jury shall find the Testator J. Mitchell late of Baltimore City deceased was seized and possessed of the premises for recovery of which the action is brought and being so seized and possessed made his last Will and Testament in Writing

by the plaintiff and devised thereunder $25 to Henry Jones, which was written and that the said Sarah E. Mitchell did unite herself to the institution of the testament of the law and in the manner as admitted by the agreement of Counsel offered in Evidence. And that after his death the said James D. Mitchell entered into possession of said premises taking the rents and profits thereof and has died in the year 1837 and that since the death of the said James the Defendant entered and does since in person or by her tenants has been in possession thereof. And that the said James D. Mitchell died in the year 1831 and unmarried and without issue and being the lessor of the plaintiff his only brother of the whole blood and that he left no sister of the whole blood then their verdict ought be for the plaintiff.

To which Defendant by his Counsel objected and prayed Leave to instruct the Jury.

That if the Jury find from the Evidence that Sarah E. Mitchell named in the Will of James D. Mitchell is the aforesaid and that the said James D. Mitchell also named in said Will died in the year 1837 leaving issue and no parents surviving him and that the said Sarah E. Mitchell also then was his sister of the whole Blood, then the plaintiff is not entitled to recover. Provided the Jury further find that the said James D. Mitchell left no other sister or brother of the whole Blood.

And the Court in consideration thereof instructed the Jury as prayed for by the Defendant and refused the instruction as prayed for by the Plaintiff. Which instruction as given by the Court and to the refusal of the Court to instruct the Jury as prayed by the Counsel for the plaintiff the said plaintiff by his Counsel prayed leave to except and that the Court would sign and seal this Bill of Exceptions which is accordingly done this 13 day of Dec. 1858.

L. Collins (Seal)

And on the same 13th day of December the said Plaintiff by his Attorney aforesaid prays an appeal from the Judgment aforesaid to the Next Court of Appeals to be held for the State of Maryland and to him it is granted.

That upon Ordered by the Court here that a Transcript of the Record of proceedings in the action aforesaid in their Court therein relating be transmitted to the said Court of Appeals and the same is hereby transmitted accordingly.

In Testimony that the foregoing is full and true Copy taken from the Record of proceedings of the Superior Court

(Seal)

Witness the signature of my name and the seal of said Court this 10 day of March 1859.

Geo. E. Stanyslau Clk of Sup. Ct. of Balto City.

And now to wit the said Henry S. Mitchell Lessee by Thomas S. Alexander his Attorney as the said Sarah E. Mitchell by Robert J. Boyd her Attorney, and thereupon on motion of the said Sarah E. Mitchell by her Attorney aforesaid it is ordered by the Court here that the said Henry S. Mitchell Lessee assign the error in the