

of his real estate as follows: "My real estate, consisting of the farm . . . I give in trust to my wife Jane Freeman during her lifetime for her use and benefit, excepting the following charges upon the same . . . my sister Marianna Freeman is to have a home and her support from the farm as long as she desires to remain there and is unmarried; my adopted daughter Isabel to have a home upon the farm, and her support also, as long as she remains unmarried. . . . At the death of my wife . . . the aforesaid farm shall be sold and the proceeds divided as follows: my sister Marianna Freeman to have one-third of the moneys from sale of farm, and my adopted daughter Isabel Freeman to have one-half of the proceeds from sale of farm, if single, and one-third if married; such moneys to be paid them as soon as the payments are made upon the property sold. The residue from sale of farm shall be divided between any of my sisters living, share and share alike, excepting my sister Marianna Freeman. Should my wife . . . outlive my sister Marianna Freeman and my adopted daughter Isabel Freeman, then the shares that would have gone to them shall be divided, and two shares I give to my brother Charles Edwin Freeman, one share to his son Charles, and the remainder to such of my sisters as may be living, share and share alike."

One John D. Freeman, a son of Isaac W. Freeman, a brother of the testator John B. Freeman, who died in his lifetime, was desirous of purchasing the farm. He had obtained conveyances from Jane Freeman, the widow, Marianna Freeman and Isabel Freeman, now Plaistow, as well as from Charles Edwin Freeman and his son, Charles Archibald S. Freeman, and the other heirs and heiresses at law and next of kin of John B. Freeman.

Upon this application an opinion was desired as to whether a good and sufficient title in fee simple could be given under these conveyances alone, or, if not, by supplementing them with a conveyance from the surviving executor.

The learned Judge was of opinion that the interests taken by the persons named, subject to the life estate of the widow, were vested interests, and that a good title might be made to the purchaser by the conveyances, provided a deed was also obtained from the executor.

In the will it did not appear that any power of sale was expressly conferred upon any one, but the provision for the sale of the farm at the death of the wife would seem to raise an implied power to that effect in the executor, and for this reason it would appear appropriate and necessary for him to execute a conveyance in favour of the purchaser.