

MIDDLETON, J.

SEPTEMBER 23RD, 1910.

RE HUNSLEY.

Will—Construction—Devise — Mistake in Description — Declaration—Life Estate—“Then” Construed as “In that Event”—Remainder—Power of Appointment — Intestacy—Contingent Vested Estate—Settled Estates Act—Sale under.

Motion by the widow of Charles Hunsley, deceased, under Con. Rule 938, for an order determining certain questions arising upon the will of the deceased and for an order for sale of the land passing by the will under the Settled Estates Act.

The will was dated the 14th January, 1889. The testator died on the 4th April, 1903.

The material parts of the will were as follows:—

“I give devise and bequeath all my real and personal estate of which I may die possessed in the manner following that is to say:—

“To my beloved wife Hannah Hunsley that part or parcel of land being and contained in the south-west quarter of lot 16 and also the north-east 50 acres in lot 17 in the 12th concession of the township of Dereham, during the period of her natural life to be enjoyed by her without let or hindrance upon the following condition that the said Hannah Hunsley shall remain my widow and I further devise that on the death of the said Hannah Hunsley aforesaid the said property shall be equally divided between my daughters Sarah Ann Hunsley and Hannah Jane Howell and in case of the death of either of them then to be divided equally among such children as be lawfully begotten by them and in case that they shall leave no children then to such person or persons as they may devise the same saving always that the children of one daughter shall have no claim on anything bequeathed to the other daughter.

“To my son George William Hunsley I give my farm containing 100 acres, being the south half of lot 17 in the 11th concession of the township of Dereham aforesaid to him and to his heirs to be by them enjoyed as may seem fit to them without any claim or incumbrance from either of my daughters aforesaid their heirs or assigns.

“All the residue of my estate not hereinbefore disposed of I give devise and bequeath unto my wife Hannah to be at her disposal in such way and manner as to her may seem fit.”

V. Sinclair, for the widow.

J. R. Meredith, for the infants.