



That the said Thomas G. Rutherford, one of the heirs at law of the said John Rutherford, Senior, deceased, died on the Twenty ninth day of November Anno Domini Eighteen hundred and sixty six having previously made his last Will and Testament in writing dated the Twenty fourth day of December Anno Domini Eighteen hundred and sixty four, to which he added and published two separate codicils, the one dated the Twenty eighth day of February Anno Domini Eighteen hundred and sixty five, the other and last one executed on the Fourteenth day of September Anno Domini Eighteen hundred and sixty six and duly Registered in the Office of the Register of Wills for the City and County of Philadelphia in Will Book No. 59 page 49, and wherein he did appoint James Rutherford (one of the Petitioners) sole Executor of that his last Will and Testament and did authorize and empower his said Executor to sell all of his real estate in these words, to wit: "I do hereby authorize and empower my said Executor to dispose of and sell at public or private Sale, for Cash or on credit, and for the best price that can be got therefor all my real and personal estate whatsoever and wheresoever" and I hereby empower my said Executor to make and execute all necessary Deeds and other assurances in the law, to the purchaser or purchasers thereof in fee simple, or for any lesser estate, without any liability on the part of such purchaser or purchasers to see to the application of the purchase money." That the said lot or piece of ground above described with the mesuages or tenements thereon erected is valued by all of the Petitioners at the sum of Forty Seven thousand dollars, that an undivided sixth part of the said lot or piece of ground and premises is held by the said "The Girard Life Insurance, Annuity and Trust Company of Philadelphia" (one of the Petitioners) as Administrator and Trustee as aforesaid under the last Will and Testament of Allen Rutherford, deceased, by which Will however no power to sell and convey real estate is given to the Trustee whereby those of the Petitioners who are the owners of the remaining five sixths of said lot or piece of ground and premises are restrained practically from conveying or alienating their said interests, undivided as aforesaid, in consequence of their being rendered thereby unmarketable. That all the parties interested in said lot or piece of ground and premises, whether as heirs, administrator and Trustee, devisees or Executors with power to sell and convey real estate of