



COMMONS REGISTRATION ACT 1965

Reference No. 205/U/35

In the Matter of the Allotment Gardens,
south of Priest Lane, Mottram St Andrew,
Macclesfield District, Cheshire

DECISION

This reference relates to the question of the ownership of land known as the Allotment Gardens, south of Priest Lane, Mottram St Andrew, Macclesfield District being the land comprised in the Land Section of Register Unit No. OL 53 in the Register of Common Land maintained by the Cheshire County Council of which no person is registered under section 4 of the Common Registration Act 1965 as the owner.

Following upon the public notice of this reference Mr M H Rains of Brook House Farm said (letter of 3 May 1979) that he might have information bearing on the matter. No person claimed to be the freehold owner of the land in question and no other person claimed to have information as to its ownership.

I held a hearing for the purpose of inquiring into the question of the ownership of the land at Stockport on 29 October 1979. At the hearing (1) Mottram St Andrew Parish Council were represented by Mr J Ford their chairman, and (2) Macclesfield Borough Council were represented by Mr R L Cole one of the solicitors with the Council.

Mr Ford who has lived in the Parish for over 50 years (since he was 12 years old), has been a member of the Parish Council since May 1955 and been their chairman since 1972, in the course of his evidence said (in effect):- The land ("the Unit Land") in this Register Unit which according to the Register contains 0.833 hectares (just over 2 acres), is allotment gardens; fenced in partly by hedges and partly (near the road junction) by iron railings (for traffic a dangerous corner). The gardens are let by the Parish Council as allotments to 12 tenants. And so it has always been as long as he can remember. He could say nothing about the history of the Unit Land; unfortunately Mr J L White the former clerk who arranged for the registration, and who probably knew the history, died recently.

On the evidence summarised above I conclude that the Parish Council are in possession of this land and that it is practically certain that such possession will not be disturbed. Possession in such circumstances is equivalent to ownership. I am therefore satisfied that the Parish Council are the owners of the land and I shall accordingly direct the Cheshire County Council, as registration authority, to register Mottram St Andrew Parish Council as the owners of the land under section 8(2) of the Act of 1965.

I am required by regulation 30(1) of the Commons Commissioners Regulations 1971 to explain that a person aggrieved by this decision as being erroneous in point of law may, within 6 weeks from the date on which notice of the decision is sent to him, require me to state a case for the decision of the High Court.

Dated this 16th — day of November — 1979

A. A. Bowen *T. J. L.*

Commons Commissioner