

In the Matter of Binks Moss, Matterdale, Cumbria.

DECISION

This reference relates to the question of the ownership of land known as Binks Moss, Matterdale, being the land comprised in the Land Section of Register Unit No. CL 309 in the Register of Common Land maintained by the Cumbria County Council of which no person is registered under section 4 of the Commons Registration Act 1965 as the owner.

Following upon the public notice of this reference the Matterdale Parish Council 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 Penrith on 16 October 1981.

At the hearing the Parish Council was represented by Mr B Spurrett, its Clerk.

The northern half of the land consists of the parcel of land numbered 84 on the map referred to in the award made 20 July 1882 under an Act to confirm the Provisional Order for the regulation of part of Matterdale Common (42 & 43 Vict., c.lxxxii), which was set out, allotted, and awarded to the Churchwardens and Overseers of the Poor to be held by them and their successors in trust as a public turbary ground for the supply of fuel for the use of the inhabitants of the ancient township of Matterdale in their tenements within the township. This land was transferred to the Parish Council by virtue of s.s.6(1)(c)(iii) and 67 of the Local Government Act 1894.

The southern part of the land was allotted by the award in small parcels to a number of people. These parcels are not fenced off from each other, nor are they fenced off from the Parish Council's land to the north. On 5 September 1960 the Parish Council entered into a wayleave agreement with the North Western Electricity Board for the placing of a line over both parts of Binks Moss and has since received the annual sums payable under that agreement. The receipt of those sums has continued for a sufficient period to give the Parish Council a possessory title to the southern half of the land.

On this evidence I am satisfied that the Matterdale Parish Council is the owner of the whole of the land, and I shall accordingly direct the Cumbria County Council, as registration authority, to register the Parish Council as the owner 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

2nd

day of

November

1981

*G. J. G. G. G.*

Chief Commons Commissioner