



In the Matter of Parish Quarry at Pingle
Wood, Stanton in the Peak, West Derbyshire D

DECISION

This reference relates to the question of the ownership of land known as Parish Quarry at Pingle Wood, Stanton in the Peak, West Derbyshire D being the part of the land comprised in the Land Section of Register Unit No. CL 38 in the Register of Common Land maintained by the Derbyshire 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 Trustees of the Stanton Estate claimed to be the freehold owner of the land in question.

I held a hearing for the purpose of inquiring into the question of the ownership of the land at Matlock on 15 November 1979.

Mr E Keighley appeared for the Stanton Estates and Mr P Elliott of the West Derbyshire District Council. Mr Elliott produced extracts from an Inclosure Award dated 8 April 1819 and he claimed that the land in question is the parcel No. 135a mentioned in the said award and that the Stanton Estates were not the owners of that parcel.

Mr Keighley took two points, first that the land in question is not parcel No. 135a and that if Mr George Wain intended to register that parcel he registered the wrong quarry and secondly that on the true construction of the award, it did not vest the freehold in any person which remained in Bache Thornhill as Lord of the Manor. First as regards the identity of the land, parcel 135a is described in the award as containing two roads bounded easterly, westerly and southerly by an allotment No. 135, made to Bache Thornhill and northerly by Drabbles Road. Mr Keighley called Mr C E Bouchier, the Estates Manager for the Stanton Estates for the past ten years, who said he had been connected with the Estates for thirty years, that he was aged 54 and had lived in the village all his life. He said he had inspected the award map and produced a photo copy of the relevant part of that map and identified a parcel on which he said he saw the No. 135a which was very faint and did not show on the photo copy. What is clear beyond doubt is that Drabbles Road, which is plainly marked on the extract from the award map, is in the area of the plot which Mr Bouchier says is 135a even if it does not adjoin it and it is equally clear that Drabbles Road could not possibly have bounded on the north the Unit land which has been registered, which lies in Sheepwalk Wood also known as Pingle Wood and adjoins some much larger old quarries.

I am satisfied that the extract from the award produced at the hearing does not refer to the Unit land and the argument put forward by Mr Elliott based on that award must fail. However even if the Unit land is parcel No. 135a, I am of opinion that the award did not divest the Lord of the Manor of his freehold interest.

The language of the Award is as follows:- "We do hereby set out and allot the following parcels of land for the purpose of getting stone gravel and other materials for building, rebuilding or repairing houses, bridges, walls (fences), drains and other works and for the use of the highways and also within the said hamlet of Birchever".

The allotment is not made to any person or persons, as for instance the Churchwardens and Overseers for the poor, or the Surveyors of the highways.



The allotment further provides that:- "the herbage, growing or recurring upon such allotment shall be vested in the said Bache Thornhill". Mr Elliott argued that this reference to the herbage would not have been necessary if Bache Thornhill owned the quarry. This argument is attractive but in my view on the true construction of the extracts from the award given in evidence, the Commissioners when providing that the herbage shall be vested in Bache Thornhill, were doing no more than to confirm that subject to the right of others to take stone. The land remained vested in Bache Thornhill. If the land was to be available for use as a quarry, the only use to which the land could be put, would be to graze any herbage available in the site.

I was told that there is in the award at least one reference to the Surveyors of the Highways and I have no reason to presume that if the Commissioners intended to vest the freehold in someone other than the Lord of the Manor, they were ~~not~~ familiar with the then current method of so doing.

Mr Keighley produced a Conveyance dated 31st March 1956 made between The Stanton Estate Company and Flora Helen Frances Davie-Thornhill and others, whereby the property therein mentioned and identified on the plans annexed thereto, was conveyed to Trustees and he identified the Unit land on the appropriate plan. The Unit land is still held by the present trustees of the said Conveyance.

On this evidence I am satisfied that the Trustees of the Stanton Estate are the owners of the land, and shall accordingly direct the Derbyshire County Council as registration authority, to register the Trustees of the Stanton Estate 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

26

day of

November

1979

G. A. Little

Commons Commissioner