



COMMONS REGISTRATION ACT 1965

Reference No. 209/U/125

In the Matter of parts of Brent Moor, South Brent

DECISION

This reference relates to the question of the ownership of parts of land known as Brent Moor, South Brent being the parts of the land comprised in the Land Section of Register Unit No. CL.161 in the Register of Common Land maintained by the Devon 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 (1) Anthony Brett Seymour and (2) Barry Richard Burke and Charles Alan Milton claimed to be the freehold owners of the land in question and W J Edwards 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 Plymouth on 23rd January 1990.

The hearing was attended by Mr P Bailey of Burd Pearse, Solicitors of Okehampton (representing Messrs. B R Burke and C A Milton) and Mr W J Edwards (Rights Entries No. 45 and 51 and a member of South Brent Parish Council).

The land was registered as common land by the Registration Authority without any application. There were numerous Rights Entries which have become final.

There are two entries in the Ownership Section of the Register. No. 1 is of H R H Charles Prince of Wales, Duke of Cornwall in respect of that part of the land hatched red and lettered A on the Register Map. No. 2 is of the South West Devon Water Board in respect of that portion of the land which is hatched in red horizontal lines and lettered B on the Register Map except the part lettered A. These entries became final after hearings before Mr Commissioner Baden Fuller in July and November 1984.

This inquiry relates to the ownership of two small parcels of land which are within the Register Unit but not included in either of the two entries in the Ownership Section mentioned above. The first of these is near the north-east corner of the Register Unit. The other is situate at the south-western tip.

Mr Bailey told me that Mr Burke and Mr Milton had recently purchased the land formerly belonging to the Water Board from Mr A B Seymour, and that this had been transferred to them by a Transfer dated 12th January 1990 of which he produced a copy. The land included the small parcel near the north-east corner of the Register Unit.

Prior to the hearing Plymouth District Land Registry informed the Clerk to the Commons Commissioners that this part of the Register Unit was included in registered freehold title No. DN208633. This is the title No. shown on the copy Transfer produced to me. As the land is registered under the Land Registration Acts, I have no jurisdiction to consider the matter further. It would seem that registration at H M Land Registry was effected after the question of ownership was referred to the Commons Commissioners.



Mr Bailey said that everything Mr Seymour owned was sold to Messrs. Burke and Milton. The parcel of land at the south-west corner was included on the Sale Plan produced by the Agents, but Mr Seymour could not make title to that parcel.

Mr Edwards thought it was part of the land formerly belonging to the Water Board, but could give no information as to its present ownership. It is significant that the Water Board did not claim this land when originally registering their ownership.

This inquiry was advertised in the usual way. No other claimants came forward.

On this evidence I am not satisfied that any person is the owner of the south-westerly parcel and it will therefore remain subject to protection under section 9 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

February

1990

Mati Rottis

Commons Commissioner