



COMMONS REGISTRATION ACT 1965

Reference Nos 212/U/126
212/U/127

In the Matter of (1) Service Lane and
(2) The Pond, Blackmore, Brentwood District,
Essex

DECISION

These references relate to the question of the ownership of lands known as (1) Service Lane and (2) The Pond, Blackmore, Brentwood District being the lands comprised in the Land Section of Register Unit (1) No CL9 and (2) No CL10 in the Register of Common Land maintained by the Essex 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 these references no person claimed to be the freehold owner of the lands in question and no person claimed to have information as to their ownership.

I held a hearing for the purpose of inquiring into the question of the ownership of the lands at Chelmsford on 19 October 1979. At the hearing Blackmore Parish Council were represented by Mr P R Hodgson one of their members.

Mr Hodgson who has lived in the parish for the last 20 years and has been a member of the Parish Council for 9 years in the course of his evidence produced a receipt dated 17 August 1965 for costs in respect of a conveyance by Mr E B Marriage by way of gift to the Blackmore Parish Council of land fronting on Service Lane, and the Parish Council Minute Books for 1960 to 1972, from 1972 to 1976 and from 1976 onwards.

After the hearing I inspected the lands.

Service Lane (the CL9 land) is a strip having a width which varies a little, averaging about 15 yards. For a little under 600 yards it extends southwards from the road leading northwestward from the Village to Nine Ashes, and then it turns sharply eastwards to join after about 80 yards the road leading southwards out of the Village to Tips Cross. From its north end for about 50 yards it is made up as far as the entrance to the Village Hall for vehicular traffic; and it is similarly made up for the use of some houses for a short distance from its southeast end. Between the two vehicular tracks there is a footpath running the whole length of Service Lane. Apart from the footpath and some access places here and there, Service Lane is grass, bushes and scrub; an attractive place for a pleasant walk.

Mr Hodges said that Service Lane was reputed to be the Old Plague Road. Between it and the Village about 2/3rds of the adjoining land belongs to the Education Authority; the remainder of the adjoining land is backland of dwellinghouses, some recently built. The land on the Register map marked as "allotment gardens" was given to the Village Hall. He called my attention particularly to the Minutes of the Parish Council meetings on 19 September 1968, 6 February 1974, 16 October 1975, 12 February 1976 and 21 April 1977.



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The said minutes indicate that Service Lane has for many years been the concern of and reputed to be under the care of the Parish Council; a path across it in 1968 proposed by the Education Authority was discussed; in 1976 the Council paid £280 for the making up of the track to the Village Hall. Some of the minutes however show a similar concern by the District Council in that £200 in 1974 spent for clearing Service Lane was expended "under concurrent powers". Further although the Parish Council were concerned to prevent the dumping of rubbish and in 1976 initiated action for a notice board, the boards which I saw (one at or near each end) are entitled "District Council".

The evidence summarised above shows at least that Service Lane is in the possession of the Parish Council and/or the District Council and that such possession is unlikely to be disturbed. I ascribe the activities mentioned in the minutes produced to me to the Parish Council rather than to the District Council because of the appearance of the land favours it being Parish property rather than District property, and because the District Council has not in these proceedings made any ownership claim. My conclusion is therefore that Service Lane may properly be presumed to be and to have been from time immemorial Parish property which by operation of law is now vested in the Parish Council.

As to the pond (the CL10 land):- There are two ponds in the Village: this one north of the road across the Green ("the North Pond") and another on the other side of the road (not the subject of this reference) is known as Duck Island Pond. Mr Hodgson said (in effect):- In 1967 there were developments on the north side of the Pond (CL10) and nobody then claimed ownership. Over the years the Parish Council have been treated as the owners of both Ponds; from time to time when the Ponds dry out, the Council clean them out and rebank the sides.

The minute books of the Parish Council contain numerous references to the Ponds showing the concern of the council with them and Mr Hodgson drew my attention particularly to those relating to meetings held on 18 February 1965, 16 February 1967 and 30 December 1974.

The evidence relating to the possible ownership of the Parish Council of the Pond is essentially similar to but far stronger than that summarised above in relation to Service Lane. Upon similar considerations my conclusion is the same: the Pond is vested in the Parish Council.

For the above reasons I am satisfied that the Parish Council are the owners of the lands, and I shall accordingly direct the Essex County Council, as registration authority, to register Blackmore Parish Council as the owner of the lands 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 30th - day of November 1979

a. a. Boden Fuller

Commons Commissioner