



COMMONS REGISTRATION ACT 1965

Reference No 45/U/310

In the matter of land (1) south of Green Gate, (2) east of Kirkby Malham Bridge and (3) adjacent to the said Bridge, Kirkby Malham, Malhamdale, Craven District, North Yorkshire

DECISION

This reference relates to the question of the ownership of land in three pieces together containing about 0.040 acres, (1) south of Green Gate, (2) east of Kirkby Malham Bridge and (3) adjacent to the said Bridge, all in Kirkby Malham, Malhamdale, Craven District being the land comprised in the Land Section of Register Unit No CL. 274 in the Register of Common Land maintained by the North Yorkshire County Council (formerly West Riding 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 no person claimed to be the freehold owner of the land in question and no 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 Skipton on 23 March 1976. At the hearing (1) Malhamdale Parish Council were represented by Mr George Walker and (2) Mr John Mitchell who is chairman of Kirkby Malham Parish Meeting attended in person.

Mr Mitchell who has lived in the Parish for about 10 years and been chairman of the Parish Meeting for about 3 years made a statement. Mr Walker who is 69 years of age, has lived in the Village for 36 years, and in the surroundings all his life, and who was chairman of the Parish Meeting for about 19 years from about 1947, gave formal evidence in the course of which he produced a grant dated 18 March 1957 and executed by himself as chairman and on behalf of the Parish Meeting, by which the Parish Meeting was expressed to grant the "footroads and barrow way" therein mentioned to three owners in consideration of 2 shillings and 6 pence to be paid annually by each of them. About 14 days after the hearing I inspected these pieces of land.

Piece 1 has always been known as the Pinfold, as it now appears to be. It is a small square piece enclosed by a stone wall, in the north side of which is a gate providing access from the motor road (through the Village from Ayrton on the south to Malham on the north) and on the south side of which there is a gap.

Of this piece (the Pinfold), Mr Walker said (in effect):- The 1954 grant provided for access to the backs of the cottages or dwelling houses and gardens shown on the plan annexed. At the time there was a verbal agreement that the owners could place their dustbins in the Pinfold. The 2/6 or 13p has been regularly paid since the grant. Before the grant was made, rubbish



was put on the piece by the Village in a heap, and the Parish Meeting arranged for a local farmer to take it away from time to time in a wagon.

Piece 2 (the largest of the three Pieces) is open land opposite the Church providing access from the nearby road to Kirkby Beck. Piece 3 (about a quarter the area of Piece 2) provides similar access to the Beck from a road next to and on the northeast side of the Bridge. Of these Pieces, Mr Walker said (in effect):- They have always been used by the public, mostly for leaving for a day or two vehicles or equipment which are not needed for short periods. In about 1960 piped water was brought to the Village for everyone including the farms; before that there was only a private supply for some of the houses for domestic purposes. Before 1960 these two Pieces were used for watering cattle from the Beck and for washing farm equipment etc.

As to Piece 1 (the Pinfold), the Parish Council (they were formed in 1972) are in my opinion now in possession as successors of the Parish Meeting who have been in possession since 1952; further the Piece has been treated as Parish property (as it now appears to be); I conclude therefore that it is now vested in the Parish Council. As to Pieces 2 and 3 (the Beck Side Pieces) they have also (but in a different way) been treated as Parish property (as they also appear to be); Mr Mitchell said he could find no reference to them in the Parish Meeting Minute Book (this goes back to 1894), but as it is unlikely that they ever produced any income or would ever give rise to any discussion, this does not I think preclude me from concluding, as I do, from the appearance of the Pieces and the use which has been made of them as above described that they also have always been Parish property and as such are now vested in the Parish Council.

For the above reasons I am satisfied that the Parish Council are the owners of all three pieces, and I shall accordingly direct the North Yorkshire County Council as registration authority to register Malhamdale 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 18th

day of

June

1976

A. A. Baden Fuller

Commons Commissioner