



In the Matter of Land on either side of Road
leading from Dalton Village to Crumma
Planation and beyond, Dalton near Richmond
North Yorkshire

DECISION

This reference relates to the question of the ownership of land on either side of the road leading from Dalton Village to Crumma Planation and beyond, Dalton near Richmond, being the land comprised in the Land Section of Register Unit No. CL.18 in the Register of Common Land maintained by the North Yorkshire 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 but Messrs. Iliffes, Solicitors, claimed to have information as to its ownership.

Mr Commissioner Baden Fuller held a hearing for the purpose of inquiring into the question of the ownership of the land at Richmond on 29 October 1974.

There was no appearance at the hearing, so in the absence of any evidence the learned Commissioner was not satisfied that any person was the owner of the land, and gave a decision accordingly.

On 27 January 1975 the learned Commissioner decided to set aside his decision and reopen the hearing on an application made by Mr T.W Metcalfe under reg.21 of the Commons Commissioners Regulations 1971.

I reopened the hearing at Richmond on 10 June 1982. On this occasion Mr Metcalfe appeared in person, the Dalton Parish Meeting was represented by Mrs L. Turnbull, its Clerk and Chairman and Mr and Mrs Richmond were represented by Mr C Vane, of Counsel.

Mr Metcalfe applied for the hearing to be adjourned. The basis of his application was that he had received a notice from a Mr Brian Sommerville that Mr Sommerville had applied to have the hearing adjourned. Mr Sommerville, however, very properly, did not state that his application had been granted. Nevertheless, Mr Metcalfe said that in consequence of that notice it had been decided that his Solicitor would not appear at the hearing. No application for an adjournment was made by or on behalf of Mr Sommerville at the hearing, and I was not willing to grant an adjournment on the grounds set out in his written application.

Although not without some sympathy for the position in which Mr Metcalfe had been placed by Mr Sommerville's notice, I took the view that it ought not to have been assumed that Mr Sommerville's application would be granted. Having regard also to the interests of the parties who had appeared, I refused to grant Mr Metcalfe's application.

The land the subject of the reference consists of strips of waste land along the sides of roads known as Moor Lane and Long Bank ~~and~~ divided from the adjoining fields by hedges or fences.



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Mr Metcalfe said that he was the lord of the manor of Dalton and claimed to be the owner of the whole of all the strips as waste land of the manor. Mr Metcalfe did not have with him the evidence to prove his lordship of the manor, but for the purposes of this decision I am prepared to assume that he would be able to produce such evidence.

There was conveyed to Mr and Mrs Richmond by a conveyance made 31 January 1979 between (1) John Michael Lancelot Hodgson and Greta Eleanor Hodgson his wife (2) James Richmond and Linds Margaret Richmond his wife inter alia two fields bounded on the north by parts of the strip of land the subject of the reference on the south side of Long Bank. The vendors had a good root of title in a conveyance made 28 August 1948 between (1) Guy Herbert Cradock (2) Norman Wilson.

This case appears to be clearly subject to the presumption that where a strip of waste land intervenes between a highway and an adjoining close, as between the lord of the manor and the owner of the adjoining close, the waste land and half the soil of the roadway belong to the owner of the close. This presumption is rebuttable, but I can find nothing in this case to rebut it.

It may well be that the owners of the other land adjoining the strips are also the owners of the remainder of the land the subject of the reference, but I can make no finding as to this in the absence of evidence.

On the evidence before me I am satisfied that Mr and Mrs Richmond are the owners of the parts of the land the subject of the reference adjoining their fields on their northern sides, and I shall accordingly direct the North Yorkshire County Council, as registration authority, to register them as the owners of those parts of the land under section 8 (2) of the Act of 1965.

In the absence of any further evidence I am not satisfied that any person is the owner of the remainder of the land, 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

29th

day of

June

1982


Chief Commons Commissioner