



COMMONS REGISTRATION ACT 1965

Reference No.45/U/211

In the Matter of Sandhole Gardens,
Tockwith, North Yorkshire.

DECISION

This reference relates to the question of the ownership of land known as Sandhole Gardens, Tockwith, being the land comprised in the Land Section of Register Unit No.C.L.672 in the Register of Common Land maintained by the former West Riding of 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 and no one 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 Harrogate on 26th March 1974.

The Tockwith Parish Council was represented at the hearing by Mr. J.W. Watts, its Acting Chairman.

By the Inclosure Award made 25th May 1797 under the Bilton (Township of Tockwith) Inclosure Act of 1792 (32 Geo.III, c.lviii) the land in question was allotted to the inhabitants of Tockwith for the digging of sand, gravel and other materials for the repair of roads. These materials were worked out before the time of living memory, and the workings have been filled in by the dumping of refuse. Recently the Parish Council has covered the refuse with top soil.

In 1797 the responsibility for the repair of highways lay upon the inhabitants at large, so that the allotment under the Award was, in effect, an allotment to the highway authority. It may be that the responsibility passed to a highway board set up under the Highways Act 1862, but, whether it so passed or not, it passed to the Rural District Council under section 25 of the Local Government Act 1894 and section 67 transferred the property held for highway purposes to that Council. Then under section 118(2) of the Local Government Act 1929 the County Council could have been required by the Rural District Council to take over any quarry belonging to the latter Council in its capacity of highway authority.

In the absence of any evidence as to what action was taken under the Act of 1929 I am not satisfied that any person is the owner 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 24th day of April 1974


 Chief Commons Commissioner