



COMMONS REGISTRATION ACT 1965

Reference No.26/U/8

In the Matter of Malt Mill
Green, Kilsby, Daventry R.D.,
Northamptonshire

DECISION

This reference relates to the question of the ownership of land known as Malt Mill Green, Kilsby, Daventry Rural District being the land comprised in the Land Section of Register Unit No.VG.12 in the Register of Town or Village Greens maintained by the Northamptonshire 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 Northampton on 26 June 1973. The hearing was attended by Mr. W. H. N. Williams solicitor of Woodford Robinson Williams & Co. Solicitor of Northampton.

Mr. Williams said in effect:- Apart from their minute books, the Parish Council could offer no documentary evidence of ownership. The below mentioned letter dated 7 July 1951 appears to have vanished.

Mr. J. J. Thomas who has lived at Kilsby since 1946, is and has been since 1955 chairman of the Parish Council and a member for 3 years before then, gave evidence. He produced (i) an old (1921-1958) and (ii) the current (from 1958) Minute Books of the Council. The former recorded that at a meeting held on 6 September 1951: "A letter was read from Mr. Bracebridge Cleasby dated 7 July 1951 handing over to the parishioners of Kilsby any control he may have had over the Village Greens. Resolved the offer he accepted". Mr. Williams said: Mr. Cleasby was, or was reputed to be, the Lord of the Manor; before 1951 Mr. Cleasby was being approached for permission to do things on or to the Green; he feeling these approaches were unnecessary, wrote the letter referred to in the Minute in order to clear up the legal position; Mr. Cleasby ceased to reside in the Village sometime before 1941. Mr. Williams also said that the Parish Council had managed the Green as they had managed other Village affairs.

Mr. E. Emery who was in 1907 born in Kilsby and had except during the 1939-45 war resided there all his life, also gave evidence. He described how the Green had always been an open space available to any resident in Kilsby; trees had been planted to celebrate important occasions; he remembered small fairs being held there and the traditional 5 November bonfires. No body had ever claimed to own the Green.

If I am satisfied that the Parish Council is the owner, I am by subsection of section 3 of the Act of 1965 required to direct that they be registered as owners. If I am not satisfied as to ownership, I am by subsection (3) of the section required to direct that the Parish Council be registered as owners. So it may be that in the particular circumstances of this case it does not matter whether I am satisfied as



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to the claim of the Parish Council under subsection (2); I was told that retrospective ownership does not matter.

There was no evidence that the things described to me as having been done on the land were done with the express authority or with the express permission of the Parish Council. I am unable on the information put before me to conclude that the Parish Council although reputedly much concerned with the land are in possession as owners. For this reason I am not satisfied that the Parish Council or any other person is the owner of the land, and I shall accordingly direct the Northampton County Council, as registration authority, to register Kilsby Parish Council as the owner of the land under section 8(3) 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

9th

day of

July

1973.

A. A. Baden Fuller

Commons Commissioner