



In the Matter of Grassthorpe Holme,
Grassthorpe.

Supplementary Decision

This decision is supplementary to the Decision I gave in this matter dated 4 March 1985. Following that decision I received an application from solicitors acting for the holders of Beast-gaits to re-open the hearing to enable them to present further evidence.

For this purpose I held a further hearing at Nottingham on 4 June 1985.

The hearing was attended by Mr M G Daniel of Larken & Co., Solicitors of Newark for 8 applicants registered in the Rights section.

There are 19 individual registrations in the Rights sections of the Register and the total claim to beast-gaits is 94½. Grassthorpe Holme is bounded on the north by Normanton Holme and on its east side by the River Trent and on its south-side by North Holme which is part of Register Unit No.CL.1. Unlike North Holme Grassthorpe Holme has not been the subject of any Inclosure Act or subsequent allotment.

I have been referred to the decision given by Commissioner A.A. Baden Fuller and dated 7 March 1977 in the question of the ownership of Normanton Common. In that case as in the present, after the solicitors representing the Denison Estate withdrew any claim by the Estate to own the soil of the unit, the owners of the Beast-gaits were the only claimants to ownership of the soil. In the case of Normanton Holme the solicitors acting for these owners accepted that if their clients had owned the soil of the unit in undivided shares before 1926 then that ownership passed to the Public Trustee on 1 January 1926, who held the Holme in trust for the owners of beast-gaits in undivided shares until such time as another trustee or other trustees were appointed to take his place. For the purpose of the Commons Registration Act 1965 the Public Trustee would be registered as owner.

The Commissioner in the Normanton Holme case referred to a number of decisions in which he had concluded that the law recognised a combined grazing and soil ownership under which land could be subject to cattle-gaits or beast-gaits and at the same time be owned beneficially by the gait owners in proportion to the number of gaits each owned. In those cases the Commissioner had taken the view that any such combined ownership could not be presumed merely because the land was subject to gaits but had to be proved.

The Commissioner was satisfied that combined ownership existed in the case of Normanton ~~Common~~ on the following evidence.

Holme



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The Holme had been managed since 1905 by a Committee elected annually by the owners of the beast-gaits which controlled both the times of grazing and the rates of stocking of the Holme. There was an annual auction sale for letting the gaits for the following year and the net proceeds of sale after provision for outgoings were divided between the owners of beast gaits.

Another matter proved was that on a sale of a beast-gait it was the practice to include along with the transfer of the gait or gaits and thereafter of such part or proportion of the soil of the common pasture as belonged to the Vendor in respect of the gait or gaits being transferred.

On this evidence and on evidence that no one other than the gait owners had ever claimed ownership of the soil of Normanton Holme the Commissioner held that the the claim for combined ownership had been made out.

In the present case I have been shown extracts from a number of conveyances in which beast gaits have been transferred in terms which are not materially from those which were mentioned in the decision relating to Normanton Holme.

I was also told that the pattern of management of Grassthorpe Holme is the same as that applied in the case of Normanton Holme including the annual letting of the gaits.

On this evidence I am satisfied that there is the same pattern of combined grazing and soil ownership as was found to exist in the case of Normanton Holme.

For these reasons I am satisfied that the Public Trustees became the owner of the land on 1 January 1926 pursuant to paragraph 2 of part V of the First Schedule to the Law of Property Act 1925 and that he is still such owner and I shall accordingly direct the Nottinghamshire County Council as Registration Authority to register the Public Trustee as the owner 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

15th

day of

July

1985

Commons Commissioner