



In the Matter of a triangular piece of land at cross roads at Woolston Moor, Sampford Brett, and another triangular piece of land at Woolston Moor, Bicknoller, both in West Somerset District, Somerset.

FURTHER DECISION.

This further decision is supplemental to a decision dated 28 October 1974 and made in this matter by the Chief Commissioner, Mr. G.D. Squibb, Q.C.

Upon the application of Mr. King (he is mentioned in the 1974 decision), the Chief Commissioner in November 1974 set aside his decision and re-opened the hearing in so far as it related to the triangular piece ("the Claimed Land") being O.S. No. 372 (being the southern of the two pieces comprised in this Register Unit). Accordingly I held a hearing for the purpose of inquiring into the question of the ownership of the Claimed Land ——— at Taunton on 4 June 1975. At the hearing Mr. King was represented by Mr. R.W. Morgan, solicitor of Clarke Wilmott & Clarke, Solicitors of Taunton.

Mr. King in the course of his evidence produced a conveyance dated 21 December 1963 by which Mr. E.R. Siddle and another as personal representatives of Mr. W.J. King ("the Testator", he died on 27 September 1952) conveyed to Mr. King (the Claimant) two dwelling houses formerly known as Moor Cottages and then known as Nos 1 and 2 Woolston Moor with the gardens and outbuildings containing 1 rood 36 perches as delineated on the annexed plan. After the hearing I walked over the Claimed Land.

The Claimed Land contains (according to the Register map) 0.548 acres, and is bounded on the north by a comparatively large open space known as Woolston Moor, on the east by a public road and on the south-west by a railway cutting (being the line now disused of the West Somerset Branch).

The Claimed Land is apparently in two pieces, which are for the most part separated by impenetrable scrub (under part of which is a dilapidated brick building) and for a small part (where there is a gap in the scrub) by a stone wall between 3 and 4 feet high; this stone wall may extend (it is not easily visible) along the whole of the dividing line between the two pieces. One of these pieces ("the West Piece") is much overgrown with brambles, and access to it from the other piece is only possible by climbing over the said wall (in the gap in the scrub). The cottages which are now empty and somewhat dilapidated, are on the other piece ("the Main Piece"); this, although much overgrown appears at one time to have been cultivated as a garden enjoyed with the cottages.

On the plan annexed to the 1963 conveyance the Main Piece is coloured pink and the West Piece is not coloured. The O.S. map shows the Main Piece and the West Piece as distinct pieces of land although they are hooked together and numbered 372 and given an area of ".548". Mr. King said (in effect):- The Testator who was his father, modernised the cottages in 1956; he acquired them under conveyance dated 16 March 1926 (they were then said to be known as Railway Cottages held with a garden contained in 1 rood 36 perches and number part 372 on the O.S. map). He would not say for certain that the West Piece had been occupied with the rest of the Claimed Land.



On the evidence outlined above, I am satisfied that Mr. King is the owner of the Main Piece. In my opinion the West Piece was not expressed to be conveyed by the 1964 conveyance; it is I think a distinct piece of land; I am not persuaded that it ever was (as Mr. King in his evidence suggested) part of the garden of the two cottages; I infer that the gap in the scrub was caused by the occupier from time to time climbing over the wall ~~not for the purpose of cultivating the West Piece, but for the purpose of obtaining access to the railway line and using it as a short cut to Woolston.~~ I conclude that Mr. King has never either by himself or his tenant been in possession of West Piece, in the absence of any documentary or other evidence, I am not satisfied that he or any other person is the owner of it.

In accordance with the conclusions set out above, I shall direct Somerset County Council as registration authority to register Mr. William Geoffrey King, of Tatham House, Bishops Lydeard, Somerset as the owner of the Main Piece under Section 8 (2) of the Act of 1965, and I shall in my directions define the Main Piece as meaning the land containing about 1 rood 36 perches and being ^{the} east of the two pieces of land both of which adjoin ^{the} railway cutting and both of which are on the Register map numbered 372 and marked as together having an area of .548.

The West piece will continue to be subject to protection under Section 9 of the Act of 1965. Nothing in this my further decision affects the 1974 decision so far as it relates to the northern of the two pieces of the land comprised in this Register Unit.

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 this decision is accepted require me to state a case for a decision of the High Court.

Dated this 19th day of June 1975.

a. a. Baden Fuller

Commons Commissioner.