



COMMONS REGISTRATION ACT 1965

Reference No. 32/U/20

In the Matter of Blagdon Green,
Pitminster, Somerset.

DECISION

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This reference relates to the question of the ownership of land known as Blagdon Green, Pitminster, being the land comprised in the Land Section of Register Unit No. V.G.9 in the Register of Town or Village Greens maintained by the Somerset 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 Miss Diana Wendy Cossins (now the wife of Mr. Joachim Hewson) claimed to be the freehold owner of the land in question and Mr. P. Gough and Mrs. B.H. Harvey 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 Taunton on 3rd November 1972.

At the hearing the Pitminster Parish Council was represented by Mr. M. Lang, its Clerk, and Mrs. Hewson and Mrs. Harvey appeared in person. The land in question was allotted by the Taunton Deane Inclosure Award made on 6th March 1851 under the Act 9 & 10 Vict., c.117 to one Robert Marke, of Blagdon in the parish of Pitminster, who consented under section 74 of the Inclosure Act 1845 to receive it in part of his allotment to be held as a place of exercise and recreation for the inhabitants of the parish and neighbourhood. It is provided by section 74 of the Act of 1845 that subject to the obligation of permitting the land to be at all times used for such exercise and recreation, the herbage of the land should belong to the person to whom it was allotted. Mrs. Harvey contended that the effect of this section was to give Mr. Marke only the herbage and not the freehold of the land. In my view this contention was a misinterpretation of the section, the effect of which is to vest the freehold, subject to the limitation of the enjoyment of the herbage imposed by the use of the land for exercise and recreation.

Mrs. Hewson produced a conveyance dated 17th May 1961, whereby the land in question was conveyed to her by Harold Frederick Tottle. She also produced deeds which clearly demonstrated that Mr. Tottle had a good title to the land as successor to Mr. Marke.

For these reasons I am satisfied that Mrs. Hewson is the owner of the land, and I shall accordingly direct the Somerset County Council, as registration authority, to register her 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 17th day of November 1972


Chief Commons Commissioner