



COMMONS REGISTRATION ACT 1965

Reference No. 233/U/41

In the Matter of land at Whiston,
Kingsley, Staffordshire Moorlands
District, Staffordshire.

DECISION

This reference relates to the question of the ownership of land at Whiston, Kingsley, Staffordshire Moorlands District being the land comprised in the Land Section of Register Unit No. CL.88 in the Register of Common Land maintained by the Staffordshire 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 Kingsley Parish Council said (letter dated 13 January 1977) that they intended to claim ownership. No other person claimed to be the freehold owner of the land in question or 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 Hanley, Stoke-on-Trent on 5 July 1978. At the hearing Kingsley Parish Council were represented by Mr K Unwin, one of their members.

The land ("the Unit Land") in this Register Unit contains (according to the Register) approximately 1/2 acre. It is on the north side of, and open to the road from Hanley to Ashbourne (A52) near the end of the ascent from Froghall Bridge (over the River Charnet) to the top of the Hill (Gimmerhill) not far from Whiston. Along the south-west side of the Unit Land there is a track leading to Gimmerhill Farm and to Mount Pleasant Farm. The rest of the Unit Land slopes steeply up to the north and east sides of the Unit Land. The registration as common land was in consequence of a registration of a right attached to Mount Pleasant Farm of turbary and to take stone for use on this Farm.

Mr Unwin who has lived in the Parish for about 23 years and been a member of the Parish Council for 14 years in the course of his evidence said (in effect):- The Unit Land has always been recognised as parish property. Although rough ground it is in keeping with the rest of the Village and enhances the appearance. The overgrowth of shrubbery hides an outcrop of sandstone which was there many years ago. It is one of the amenities of Kingsley. He thought people must at one time have taken these stones if and when required, but this has not happened in his time. He mentioned particularly the shrub flowers (wild roses) hips, blackberries and bilberries. There was for many years a notice on the Unit Land to the effect: "NO TIPPING BY ORDER OF CHEADLE DISTRICT COUNCIL" which he thought must have been put up at the request of the Parish Council. The Parish Council never had any complaint about it and there had never been any necessity for the land to be discussed by the Parish Council.



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On the day after the hearing, I inspected the Unit Land.

By Section 8 of the 1965 Act, I am in this decision required to state whether I am "satisfied" that any person is the owner of the Unit Land and ownership is in Section 22 defined as meaning "ownership of a legal estate in fee simple". To be so satisfied, I must I think have something more than a statement by a witness that he believes X to be the owner. My difficulty is that although there is much in what Mr Unwin said and much about the appearance of the land to support the view that the Unit Land is rightly registered under the 1965 Act as common land (such registration being undisputed has become final), I have nothing additional to indicate either that it is owned by the Parish Council in any legal sense or that it "belongs to the Parish" within the popular meaning of these words. I have no jurisdiction to vest the land in the Parish Council merely because it is expedient. Upon considerations outlined above, I am not satisfied on the evidence given and the appearance of the land that any person is the owner of it, and it will therefore remain subject to protection under Section 9 of the 1965 Act.

In another case relating to this Parish (reference 233/U/58; Register Unit No VG39) mention was made of an award dated 24 July 1856. The Unit Land appeared to me to be the sort of land which might have been allotted as a parish quarry under an inclosure award. For this reason, I will reconsider this decision if the Parish Council within 6 weeks of this decision being sent to them send to the office of the Commons Commissioners a copy of the relevant part of the map attached to any Inclosure Award which they think might be relevant (such map to be certified by the County Archivist or other person having the custody of the Award) and an extract (similarly certified) of parts of the Award considered to be relevant.

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 7th — day of August — 1978

a. a. Basil Fuller

Commons Commissioner.