



In the Matter of The Hollies Common,
Gnosall, Staffordshire (No. 1)

DECISION

This dispute relates to the registration at Entry No. 1 in the Land Section of Register Unit No. CL 68 in the Register of Common Land maintained by the Staffordshire County Council and is occasioned by Objection No. 27 made by Mr J H Liversage and noted in the Register on 27 October 1970.

I held a hearing for the purpose of inquiring into the dispute at Stafford on 17 July 1979. The hearing was attended by Mr J Sharman, a member of the Gnosall Parish Council, the applicant for the registration. There was no appearance by or on behalf of the Objector. There was, however, present Mr Robert Wakefield, of Counsel, who appeared on behalf of Mr T F C Winnington, Earl Cawdor and Mr Q H Crewe.

There was an objection to the registrations at Entry Nos. 1 to 4 in the Rights Section of the Register Unit by their predecessor in title, but no objection by him to the registration the subject of this dispute. I refused to hear argument by Mr Wakefield because his clients were not persons entitled to be heard under regulation 19(1) of the Commons Commissioner Regulations 1971 (S.I. 1971 No. 1727), and in reliance on the scintilla of evidence contained in the statutory declaration made by Mr A E Harrison in support of the application on 25 March 1968, I decided to confirm the registration. Notice of my decision was given on 9 November 1979.

Mr Wakefield's clients applied to the High Court by notice of motion dated 24 June 1982 for an order of certiorari to quash my decision, and on 23 November 1982 Woolf J made such an order on the ground that there being an objection to the registration, it was my duty under section 6(1) of the Commons Registration 1965 to inquire into the matter, even though the Objector had not appeared to support his objection.

I re-opened the hearing at Stafford on 15 March 1983. On this occasion the Gnosall Parish Council was represented by Mr P Claydon, Solicitor, and Mr Winnington, Earl Cawdor and Mr Crewe by Mr S Maurice, of Counsel.

The Ownership Section of the Register Unit contains the registration of Alan Stobart Monckton as the owner of the whole of the land comprised in the Register Unit but on 27 March 1979 Mr Monckton conveyed the land to Mr Maurice's clients.

By my decision in In the Matter of The Hollies Common, Gnosall (No. 2) (1979), Ref. Nos. 233/D/13-14. I refused to confirm the registrations at Entry Nos. 1 to 4 in the Rights Section of the Register Unit, and those registrations became void on 21 December 1979. There being no other registrations in the Rights Section of the Register Unit, Mr Claydon was unable to argue that the land in question fell within the first limb of the definition of "common land" in Section 22(1) of the Commons Registration Act 1965. Mr Claydon said that he was not claiming that the land fell within the second limb of the definition, because it had been severed from the lordship of the manor.



In these circumstances I refuse to confirm the registration.

Mr Maurice applied for an order for costs in respect of both hearings on the ground that costs should follow the event. In dealing with such an application in relation to a registration in the Land Section of a Register Unit it is not the general rule that costs should follow the event. If an application for such a registration is made bona fide in the public interest and the applicant has not given ground for criticism in the conduct of the proceedings, it is usually inappropriate for an order for costs to be made. My only criticism of the Parish Council is that Mr Maurice's clients were not informed in advance that there would be no support for the registration at the hearing on 15 March 1983. But it is equally to be observed that Mr Maurice's clients made no enquiry as to the course proposed to be followed by the Parish Council. Had there been a reasonable measure of co-operation between the Parish Council and Mr Maurice's clients, it would not have been necessary for any costs to have been incurred in respect of the hearing on 15 March 1983. After careful consideration I have come to the conclusion that this is not an appropriate case for an order for costs in respect of either hearing.

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

18~~th~~

day of

March

1983

Chief Commons Commissioner