



COMMONS REGISTRATION ACT 1965

Reference Nos.38/D/13-22

In the Matter of East Beach,Selsey, West Sussex.DECISION

These disputes relate to the registration at Entry No.1 in the Land Section of Register Unit No.C.L.6 in the Register of Common Land maintained by the West Sussex County Council and are occasioned by Objection No.5 made by Mr.Francis Gregory, Objection No.9 made by Mrs. A. Rowe, Objection No.10 made by Mr.Herbert Brook, Objection No.11 made by Mr.Robert Vale, Objection No.17 made by John Sherlock Ltd, Objection No.18 made by Mrs.Alfreda Scott and all noted in the Register on 10th January 1969, Objection No.62 made by D.W.H.Investments (Woking) Ltd and Objection No.63 made by Mr.Harold Pannell and both noted in the Register on 31st March 1969, and Objection No.87 made by Mr.Peter Barker and Objection No.88 made by Mrs.Dorothy Kellough and both noted in the Register on 24th September 1969.

I held a hearing for the purpose of inquiring into the disputes at Chichester on 4th July 1973. The hearing was attended by Mr.Ritchie, of counsel, on behalf of the Selsey Parish Council, the applicant for the registration. Mr.Gregory, Mr.Brook and Mr.Vale appeared in person; D.W.H.Investments (Woking) Ltd was represented by Mr. D.W.Hughes, its managing director; Mrs.Rowe and Mrs.Scott did not appear and were not represented; and Miss Cameron, of counsel, appeared for the other Objectors.

The land the subject of the reference is covered with shingle and is bounded on the east side by high water mark of ordinary tides. It was sought to support the registration on the ground that the land is subject to rights of common to take seaweed.

I feel grave doubt as to whether it is possible in law for there to be a right of common to take seaweed from land above high water mark, for seaweed on such land has presumably been washed there by an exceptionally high tide and is therefore not the natural produce of the soil. However, it is possible to dispose of this case on its facts without deciding this interesting question of law.

The only evidence regarding the taking of seaweed from the land in question was that the occupiers of a farm called Park Farm used to take it for agricultural purposes until about 40 years ago. This cannot have been done in the exercise of a right of common, for Mr. A.E. Mason, who was at one time the agent for the owners of Park Farm, said that his employers used to own the land the subject of this dispute as well as Park Farm. It therefore follows that the occupiers of Park Farm took the seaweed either in the exercise of some right under their tenancy agreements or with the acquiescence of their landlords.

For these reasons I refuse to confirm the registration.



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Miss Cameron applied for an order that the Parish Council should pay her clients' costs. Miss Cameron did not suggest that the costs should necessarily follow the event, but based her application on what she said was the failure of the Parish Council to disclose its case to the Objectors in time to save the incurring of unnecessary costs.

I have referred in my decision in In the Matter of the Fishing Beach, Selsey (1973), 38/D/5-7 to correspondence in 1968 and 1969 between the Parish Council and the solicitors for some of the Objectors. It does not appear to me that even if the Parish Council had shown more willingness to disclose its case to the Objectors, the costs of the hearing would have been avoided. It seems apparent that both sides were very much in the dark as to the true position and that an inquiry was necessary to resolve the matter. Although the claim made by the Parish Council has turned out to be ill-founded, I am satisfied that it was made in good faith and was not frivolous. I therefore make no order as to costs.

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 26th day of July 1973

Chief Commons Commissioner