



In the Matter of Erringden Common or Bellhouse
and Erringden Moor, Calderdale MBC

DECISION

This reference relates to the question of the ownership of land described above being the land comprised in the Land Section of Register Unit No. CL.422 in the Register of Common Land maintained by the West Yorkshire County Council of which no person is registered under section 4 of the Commons Registration Act 1965 as the owner. *Municipality*

Following upon the public notice of this reference Mrs G M Jones claimed to be the freehold owner of the land in question ("the unit land").

I held a hearing for the purpose of inquiring into the question of the ownership of the unit land at Wakefield on 9 May 1985. At the hearing Mrs Jones and Mr E Sutcliffe (also claiming ownership) appeared in person.

According to the particulars of the Land Section, the area of the unit land is 135.4 hectares (334.3 acres). Mrs Jones produced documents of title relating to Haven Farm, which lies near to the north-eastern boundary of the unit land. This farm, comprising some 22 acres, was purchased in 1928 by F Collinge, the conveyance by J A Williams being dated 1 December 1928 ("the 1928 conveyance"). The farm passed to successive owners and ultimately by a conveyance dated 1 December 1970 ("the 1970 conveyance") to Ronald H Jones: following his death in 1978 the farm (with other property) was the subject of an Assent dated 10 December 1979 in favour of the claimant, Mrs G M Jones.

From the plans attached to the 1928 conveyance and the 1970 conveyance it appears that the farm included land lying between Tugate and Old *Harvey* Lane which is also part of the unit land. This part is in the area hatched red on the plan attached hereto and I am satisfied that it is in the ownership of Mrs Jones.

The other claimant, Mr E Sutcliffe, produced no evidence at the hearing but has since sent documents in support of that claim. I have examined these and the one most relevant to Mr Sutcliffe's claim is a conveyance dated 29 October 1979 by which Mrs M L Williams conveyed to him property in Cragg Vale Mytholmroyd and also "so far as the vendor may now have power to convey or assign the same and in so far only as the same be now subsisting four equal undivided eleventh parts or shares of the vendor of and in all such estate and interest of and in all such estate and interest of and in Bell House and Erringden Moors as were comprised in and conveyed by a Mortgage dated 10th August 1908." I hardly think that this would by itself be accepted as satisfactory evidence of ownership of a 4/11th undivided share, but even if it could be so accepted, it does not support a claim to ownership (i.e. of the legal estate) of the unit land or any specific part of it. It does suggest that there was ownership of shares in the unit land, in which case the probable result is that legal ownership of the land itself became vested in the Public Trustee under the provisions of the Law of Property Act 1925 First Schedule Part V, para 2. As matters stand, except as to the area claimed by Mrs Jones, I am not satisfied that



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any person is the owner of the unit land. I shall accordingly direct the West Yorkshire Metropolitan County Council, as registration authority, to register Mrs G M Jones under Section 8 (2) of the 1965 Act of the area claimed by her: the remainder of the unit land will remain subject to protection under section 9 of the Act.

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 November 1985

L. J. Morris Smith

Commons Commissioner

