



COMMONS REGISTRATION ACT 1965

Reference No.45/U/318

In the Matter of Scotgate Quarry, Honley,  
Holmfirth, Kirklees D.,

DECISION

This reference relates to the question of the ownership of land known as Scotgate Quarry, Honley, Holmfirth, Kirklees D., being the land comprised in the Land Section of Register Unit No. CL.341 in the Register of Common Land maintained by the former West Riding of Yorkshire 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 the Holmfirth Parish Council and the West Yorkshire County Council claimed to be the freehold owners of the land in question and no other person 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 Huddersfield on 15 October 1974. Mr. D. H. Nicholson appeared on behalf of Holmfirth Parish Council and Mrs. Lloyd appeared on behalf of the West Yorkshire County Council. Evidence was led which established that as long ago as 1927 the land in question was used for the purpose of the deposit and destruction of refuse and that it has been continually used for that purpose ever since.

Mr. Nicholson claimed ownership on behalf of Holmfirth Parish Council and in support of that claim his submission was:-

(1) that by virtue of a Manor of Honley Award dated 1788 which he produced and the local government Act 1933 the land in question was "parish property" as defined by section 305 of that Act.

(2) that the local authorities (England) (Property etc) Order 1973 No. 1861, Schedule 2 paragraph 1 (b) (i) (b) defines "Parish Matters" as including "Parish Property" as defined in the 1933 Act. and therefore

(3) that by virtue of item 13 in the Table referred to in the said Schedule 2 the land in question vested in the parish council as "parish matters" and not in the County Council as "County Matters".

At the hearing the point taken by Mr. Nicholson took me and I believe also Mrs Lloyd by surprise, and the full texts of the Acts and Orders referred to above were not available. Mr. Nicholson indicated that in his view the point was one of general application and pressed me to decide it.

It is relevant to refer to the Register; the land in question was registered as common land and rights of common for the purposes of the Award referred to above were registered in the Rights Section by Holmfirth Urban District Council on behalf of the inhabitants of the Manor of Honley. Both these registrations became final on the 1st August 1972.



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The continued subsistence of rights of common for the purpose of taking stone gravel and other materials in my opinion precludes that land in question from falling within the definition of Parish Property as defined in section 305 of the 1933 Act since in order to fall within that definition "the materials in the land" must be "exhausted or not suitable or required". The foundation of Mr. Nicholson's submission is that the land in question is "parish property" as defined by section 305 aforesaid and since in my view the land in question is not "parish property" as so defined I cannot accede to his submission.

Mr. Nicholson's claim to ownership was, as I have said above, founded on the application of the 1933 Act, he did not put forward any alternative claim to ownership. I am not satisfied that the U.D.C. was the owner of the land prior to 1st April and it therefore follows that any claim to ownership by the County Council must fail.

Even if the U.D.C. was the owner of the land prior to 1st April 1974 in order to establish that the land vested in it at that date it would have to satisfy me that the land was comprised in "County Matters" as defined in paragraph 1 (a) (i) of the Order 1973 No.1861 by virtue of its being held by the U.D.C. for refuge disposal purposes. In view of the fact that the land is common land subject to common rights I am not so satisfied.

On this evidence I am not satisfied that any person is the owner of the land, and it will therefore remain subject to protection under section 9 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 8<sup>th</sup> day of November 1974

  
Commons Commissioner