



COMMONS REGISTRATION ACT 1965

Reference Nos.206/D/20 - 23

In the Matter of Viscar Common, Wendron
Kerrier D, Cornwall

These disputes relate to the registration at Entry No.1 in the Land Section and Entry No.1 in the Rights Section of Register Unit No. CL 740 in the Register of Common Land maintained by the Cornwall County Council and are occasioned by Objection No.X 1051 made by Mrs. E.M. Prowse and noted in the Register on 15th August 1972 and Objection No.X 1266 made by Mr W.R. Smith and noted in the Register on 6 December 1972.

I held a hearing for the purpose of inquiring into the disputes at Truro on 9 May 1975.

The hearing was attended by Mr R.A. Bullough of Messrs G.L. Robins, Solicitors for Mr E.H. James and Mr Fox of Messrs Reginald Rogers & Son, Solicitors for Mrs E.M. Prowse. Notwithstanding that Mr Smith had registered his objection he gave evidence on behalf of Mr James who had registered a claim to common rights.

On 5 October 1937 part of the land in question was conveyed to Mrs Prowse's father Walter Moyle by a conveyance made between J.L. Rogers and others and the said Walter Moyle and part of that land has been cultivated since the 1939/45 war. Mr James stated that he raised no objection that cultivation because it was "digging for victory".

Mr. James produced a conveyance dated 1 December 1769 which he said comprised 'Sunnyside' and common rights appurtenant to 'Sunnyside' but he did not give or adduce any evidence as to the exercise of any rights appurtenant to 'Sunnyside'. Mr James stated that prior to main water being laid on, cattle were watered in the stream adjoining the land in question and he said that the right to water cattle was still required because the main water was on occasions shut off. The right to take water is not a common right and in any event the watering place is not on the land owned by Mrs Prowse.

Mr Smith said his daughter has led ponies on the land in question. Not only does Mr Smith farm at Viscar Farm and not at 'Sunnyside' but in my view a child leading her pony on occasions is not exercising a right to graze. In the absence of any evidence relevant to Mr James's claim to rights, I refuse to confirm the Entry No.1 in the Rights Section of the Register and I refuse to confirm the Entry No.1 in the Land Section of the Register as regards that part of the land in question conveyed to Mr Moyle by the conveyance dated 5 October 1937.



I was told that prior to 1937, the land was all manorial waste and I confirm the Entry No.1 in the Land Section as regards that part of the land not conveyed by the said conveyance. A true copy of the plan on the said conveyance must be supplied to the Registration Authority. Mr Fox applied for costs and I award Mrs Prowse the costs of Mr Fox's attendance at the hearing on 9 May 1975 on Scale 2.

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.....29th.....day of.....17^{May}.....1975

C. A. Settle
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Commons Commissioner