



COMMONS REGISTRATION ACT 1965

Reference No.45/U/10

In the Matter of Railer Bank, Mickley,
Azerley and Winksley, North Yorkshire.

DECISION

This reference relates to the question of the ownership of land known as Railer Bank, Mickley, Azerley and Winksley, being the land comprised in the Land Section of Register Unit No.CL 226 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 Freeholders of the Manor of Mickley 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 Harrogate on 8th May 1975.

At the hearing Mr D.M.A.Bryant appeared on behalf of himself and the other Freeholders of the Manor.

In the Middle Ages the manor of Mickley belonged to Newburgh Priory. After passing to the Crown on the dissolution of the Priory it was sold. By 1600 it was in the hands of Richard Etherington and Henry Best, who by an indenture dated 21st April in that year conveyed it to Simon Wydhowse and a number of other persons. By an indenture dated 25th October 1622 Wydhowse and Jeffrey East (presumably the last survivors of the grantees named in the indenture of 1600) conveyed the manor to Richard Ullathorns and others.

There is no evidence as to how the survivors of the grantees named in the indenture of 1622 dealt with the manor, but it is recited in the Kirkby Malzeard Inclosure Act of 1787 (27 Geo.III,c.xxiv) that the several Freeholders of the Hamlet or District of Mickley claimed to be the lords of the manor and that doubts had arisen whether the Hamlet or District of Mickley was part of the manor of Kirkby Malzeard or was an inferior manor within the manor of Kirkby Malzeard. For the settling of these doubts it was provided that the claims of Mrs Elizabeth Allanson, the lady of the manor of Kirkby Malzeard and of the Freeholders should be heard and determined by Peter Johnson of York. By his award dated 1st February 1786 Johnson decided that Mickley was neither part of nor an inferior manor of Kirkby Malzeard, but was a separate manor.

There is then a further gap in the evidence until 8th October 1895, when the present minute book of the manor of Mickley was brought into use. The lords of the manor were then stated to be the Marquis of Ripon, Matthew Mark Barker, and others (unnamed). The then Marguis of Ripon and his successor continued to be named until 1922. Then W.D.Arton, Esq. and others were



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described as lords of the manor, and finally since 1951 Trinity College, Cambridge and others.

In addition to the proceedings of the Court Leet and Court Baron with the Customary Court, the minute book records meetings of the lords of the manor (sometimes described as meetings of the freeholders) at which decisions were made regarding the management of the property of a kind which an individual lord of a manor would make in private without any formal record. The book also contains accounts, including receipts from lettings. The land the subject of this reference has been let for many years and the rent paid to the Stewards of the manor.

I am satisfied on the evidence that the land in question is parcel of the manor of Mickley and that the freeholders in the area described in the Act of 1787 as the hamlet or district of Mickley are beneficially entitled to the lordship of the manor and to this land. However, it is provided by section 22(2) of the Act of 1965 that references in that Act to the ownership and the owner of any land are references to the ownership of a legal estate in fee simple in the land. Since 31st December 1925 section 1(6) of the Law of Property Act 1925 has rendered undivided shares in land, which by virtue of section 205(1)(ix) includes a manor, incapable of subsisting as legal estates. Since the lordship of the manor and therefore this land were held in undivided shares on 31st December 1925, it is necessary to turn to the transitional provisions in the First Schedule to the Act of 1925. It appears on the evidence before me that this was not a case to which the provisions of para.1(1)-(3) of Part IV of that Schedule applied. It therefore follows that by virtue of para.1(4) the entirety of the manor and this land vested in the Public Trustee upon the statutory trusts.

For these reasons I am satisfied that the Public Trustee is the owner of the land, and I shall accordingly direct the North Yorkshire County Council, as registration authority, to register him as the owner of the land under section 3(2) 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 9th day of

June

1975

Chief Commons Commissioner