



In the matter of Druid Corner, Birchover, West
Derbyshire D.

DECISION

This reference relates to the question of the ownership of land known as Druid Corner, Birchover, West Derbyshire D. being the land comprised in the Land Section of Register Unit No. CL 15 in the Register of Common Land maintained by the Derbyshire 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 each of them, The Trustees of the Stanton Estate and Birchover Parish Council claimed to be the freehold owner 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 Matlock on 15 November 1979.

Mr E Keighley appeared for the Stanton Estate and Mr R B Pringle chairman of the Birchover Parish Council appeared for his Council.

Mr Keighley accepted that the unit land is plot No. 101 set out and allotted for the purpose of getting stone and gravel, in the inclosure award dated 8 April 1819 and in this case, unlike the case of Pringles Wood Ref. 208/U/62 the only question which it falls to me to decide is whether or not the Award vested the freehold in the Parish Council.

The Award set out and allotted the land "For the purpose of getting stone gravel and other material for building rebuildings and repairing of houses bridges walls (fences) drains and other works for the use of the Highways". It did not allot the land to any person or persons such as the Church Wardens and Oversees of the poor or the Surveyors of the Highways.

The Award further provided that the herbage on or renewing upon the said allotments shall be vested in the said Bache Thornhill who was the Lord of the Manor.

It was argued that the circumstances that the Award vested the herbage in the Lord of the Manor was an indication that it has divested him of the freehold.

The view which I take as to the true construction of the extracts from the Award produced at the hearing is that the Commissioners did not allot the land to any person they allotted it "for purposes" and left the freehold in the Lord of the Manor and the reference to the herbage did no more than confirm that subject to the land being available for the stated purposes. The title remained in the Lord of the Manor.

I did in the course of the hearing suggest the the right to take stone and gravel might be extinguished for failure to register the right as a right of common. This suggestion was of course obiter but on further consideration I believe this suggestion was not well founded and again obiter. I put forward



the view that the land may be subject to a trust for the purposes mentioned in the Award.

The title of the Trustees of the Stanton Estate is the same as that proved in the case of Pringle Wood referred to above, Mr Bourcher identified the land on one of the plans annexed to the conveyance dated 31 March 1956 mentioned in my decision on that case.

For the above mentioned reasons I have come to the conclusion that the Trustees of the Stanton Estate are the owners of the land, and I shall accordingly direct the Derbyshire County Council, as registration authority, to register them as the owners of the land under section 8(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 26 day of November

1979

A. Little

Commons Commissioner