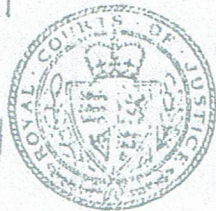
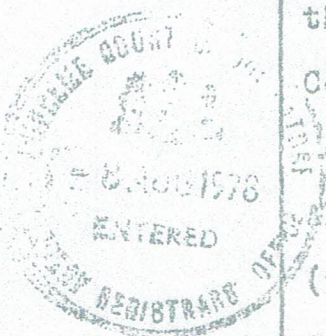


(6)



MR WILSON
REGISTRAR
Folio 52A

NA 43



IN THE COURT OF APPEAL 1975 W 3423

WEDNESDAY the 24th day of MAY 1978

IN THE MATTER of BROYHEAD COMMON HAMPSHIRE

and

IN THE MATTER of THE COMMONS REGISTRATION ACT 1965

WHEREAS on 2nd September 1977 Anthony Gary Peter Whitfield the Appellant by Case Stated from the Decision dated 22nd November 1974 of the Chief Commons Commissioner and pursuant to Originating Motion dated 22nd July 1975 served on Ernest Alexander Connell and Fiona Rosemary Diana Cooke (two of the Respondents to the said Originating Motion in the Court below) Notice of Appeal from so much of the Order of the Court below dated 24th March 1977 as Ordered upon the said Appeal by Case Stated that the said Decision dated 22nd November 1974 be affirmed except so far as relates to the registration of the Respondent Fiona Rosemary Diana Cooke being entry Number 12 in the Rights Section of Register Unit Number CL147 in the Register of Common Land maintained by Hampshire County Council (which registration by the said Order was discharged) that the said Order be reversed in relation to the registration of the Respondent Ernest Alexander Connell and that all necessary or consequential directions be made and further and in any event that the said Order insofar as it dealt with costs be set aside

as to the land of the Anthony Gary Peter Whitfield

AND WHEREAS the said Appellant Anthony Gary

Peter Whitfield subsequently set the said Appeal down for hearing in the Chancery Final List of Appeals

AND the said Appeal appearing in the Paper for hearing before this Court this day accordingly

AND UPON HEARING Counsel for the Appellant and for the Respondents Ernest Alexander Connell and Fiona Rosemary Diana Cooke

of AND the Hampshire County Council (a further one *of* the Respondents to the said Originating Motion in the Court below) by their Counsel attending before this Court this day and requesting that they be ~~made~~ Respondents to the said Appeal now before this Court jointly with the existing Respondents Ernest Alexander Connell and Fiona Rosemary Diana Cooke

AND the Appellant and the existing Respondents by their Counsel consenting to the next following provision of this Order

THIS COURT DOETH pursuant to Order 59 rule 8 of the Rules of the Supreme Court ORDER that the Appellant do forthwith serve the said Notice of Appeal from the said Order dated 24th March 1977 additionally on the Hampshire County Council and that they do forthwith accordingly this day become Respondents to the said Appeal jointly with the said existing Respondents

AND UPON READING the said Order dated 24th March 1977

AND the Appellant Anthony Gary Peter Whitfield



and the Respondents Ernest Alexander Connell Fiona
 Rosemary Flann Cooke and The Hampshire County Council
 by their Counsel stating that they have agreed to
 the terms for the settlement of the said Appeal
 set forth in the Schedule hereto and consenting to
 this Order

IT IS ORDERED that upon the said terms of
 settlement the said Appeal of the said Anthony Gary
 Peter Whitfield from the said Order dated 24th March
 1977 do stand dismissed out of this Court

THE SCHEDULE

1 The Appellant Anthony Gary Peter Whitfield shall
 grant to the Respondents the Hampshire County Council
 a Lease for the term of 20 years from the date of the
 foregoing Order at the rent of one peppercorn (if
 demanded) of approximately 5 acres of land (being the
 land shown edged red on the plan hereto annexed) to
 be used as a cricket pitch and for associated
 recreational purposes the Lease to contain a right
 for the said County Council to sub-let the whole
 to cricket clubs or other bodies approved by the
 said Anthony Gary Peter Whitfield such approval not
 to be unreasonably withheld Failing such use as
 aforesaid the said 5 acres of land shall be held and
 managed by the said County Council in the same manner
 as the land specified in paragraph 4 hereof below

2 The said Anthony Gary Peter Whitfield shall
 consent to all proceedings in the Alderhot County
 Court under Plaint Number 7351089 being dismissed

with no Order save that each party bear their own costs

3 Upon the release by the Respondent Ernest Alexander Connell of all his rights over the area amounting to approximately 80 acres of land at present enclosed by fences upon the part of the common owned by the said Anthony Gary Peter Whitfield (such release to be effected by a separate Deed of Release made between the said Ernest Alexander Connell and the said Anthony Gary Peter Whitfield upon the terms agreed between them) the said County Council shall not pursue its provisional registration of the said area as common land and the Respondents jointly and severally consent to the amendment or withdrawal by the said County Council of its provisional registration pending before the Commons Commissioner of the said area so as to exclude all reference to the said area on the Commons Register and shall further consent to and support any Application by the said Anthony Gary Peter Whitfield or his successors in title to the Secretary of State regarding the said fences under Section 194 of the Law of Property Act 1925

4 The balance of the part of the Common owned by the said Anthony Gary Peter Whitfield amounting to approximately 100 acres of land shall be let by the said Anthony Gary Peter Whitfield to the said County Council for the term of 20 years from the date of the foregoing Order at the rent of £200 per annum for



the first 5 years with upwards-only reviews at intervals of 5 10 and 15 years. Such letting shall provide inter alia for the management of the said land by the said County Council in such a way as to conserve its scientific and landscape qualities while permitting reasonable access for the said Anthony Gary Peter Whitfield and his successors in title and for the public without prejudice to the confirmation of the registration of the said 100 acres as common land

5 Each of the parties shall bear their own costs occasioned by this Appeal without prejudice to the Order made by the Court below with respect to the costs of the proceedings in that Court

H. J. W.