



Aerial Map showing Rusty Lane c2013

Right of Way Dispute 1921

At the Bristol Assize yesterday, Mr Justice Branson heard an action brought by Mrs Ludlow Bruges, at one time a considerable landowner in Wiltshire, against Mr William Hewart Bell and his daughter Miss Hewart Bell, to obtain a decision as to her rights over a piece of land known as Rusty Lane, of which she claimed to be owner in fee simple.

Mr E H C Wethered (instructed by Mr E J White, Trowbridge) appeared for the plaintiff, and Mr S H Emmanuel, KC, Mr F E Weatherly and Mr Rayner Goddard (instructed by Messrs Wansborough and Co) for the defendants. Mr E H C Wethered said that Rusty Lane was a long strip of pasture land subject to a footpath which ran from Seend village to the Melksham road. Defendants' case was that the lane was a public highway for all purposes, including carts and horses, throughout the entire width. In June last the womens institute hut was in course of construction in a field at the end of Rusty Lane, and defendants made an entrance for the purpose of sending up horses and carts, and even a traction engine, to the hut. Considerable damage resulted, the pasture land being turned up and large ruts formed. Complaint was made by letter, defendants replying that they had a right of way over the property. The lane at the Seend end was entered by a stile, by the side of which was a gate, which was always kept locked. The Rectors of Seend and others had paid 1s a year to Mrs Ludlow Bruges for the right to use an entrance to the lane. The pasture land had been let continuously to successive tenants from before 1882 down to the present time. Mr Wethered put in photographs and surveyor's maps to prove that the lane had never been used for vehicular traffic, that there was no sign of metal, and that it was a soft road. Mr Wethered had not concluded his opening statement when the Court adjourned until today.

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Right of Way Continued

Mr T B Silcock, architect and surveyor, Bath, described the damage to the lane made (it was alleged) by the defendants' use of it, and said it would have taken twelve months to restore it to its previous condition.

Mrs Ludlow Bruges said she was married in October 1881, and was the widow of the late Richard Heald Ludlow Bruges, who died on June 30, 1907. Witness was a life tenant. Witness had lived almost continually since 1882 at Seend. Rusty Lane had been let to tenants for 100 years and witness had known it let to tenants for the past 40 years. In August 1917 witness let the lane to a man named Smith, subject to a 12 months' notice. She had never seen carts in the Lane. Witness had always paid tithe on the lane. Last year she found the pasture all cut to pieces with wheeled traffic and building materials. Gates had been taken from their hinges, and there were signs where the engines had gone through. Witness erected a gate by way of protest. Later she saw a number of women, including Miss Bell coming down the lane. The latter came up to witness and said "Did you do that?" pointing to the gate. Miss Bell then shouted "Come on", and she and the others rushed towards the fence, knocked it down, smashed the railings and then went through. Witness was not now able to let the lane and could not let it until this matter was settled. The gates leading to the village were also fastened back. Witness added that she wished to do everything she could for the village.

William E Underwood, of Bath, building and quantity surveyor said the lane had been cut up by traffic and there was not much grass left.

Joseph E Wiltshire, parish clerk of Seend, said there was a horse and bridle track down the centre of the lane. He had never seen people drive right through to the Melksham Road.

Jane Willis who rents from the defendant Bell, and who had the field in which the institute hut has been built, said her daughter made a payment in August last in respect of a gate to the plaintiff.

Mr Goddard, in the temporary absence of Mr Emanuel. Submitted that no case had been made out against the defendant, Mr Bell.

Mr Emanuel submitted that the use of the Institute was responsible for the damage of the lane, and not building operations.

Mr Wethered submitted that the road was still being used by the defendants, and timber had been hauled down it.

Mr Emanuel denied that Mr Bell had cut any timber. Some trespasser had cut down Mr Bell's timber.

His Honour gave a verdict for the defendants, and ordered the plaintiff to pay one set of costs.

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