CHAPTER XVI
FOREST DEPARTMENT LANDS OUTSIDE GOVERNMENT FORESTS

The Forest Department also owns lands and holds leases on lands to which the Rajasthan Forest Act does not apply. It is important that there should be a clear title and that the title deeds are registered and preserved.

Such land is held usually for roads, building contracts of Forest produce such as 'Anwal' or depot sites outside Government Forest Limits and is or has been acquired by purchase, exchange or gift. The nature of tenure may be absolute, temporary or for a specific purpose only, especially in the case of a site acquired by gift, the gift may be conditional; e.g., a site may be given for a Naka on condition that it would revert to the owner if the Naka is abolished.

It is desirable in all cases to have the title of the seller or donor inquired into by the Revenue Department and the transfer of the site recorded in the village or municipal records.

There should be a register of title deeds in the Divisional Office and a special file in which the deeds are preserved as a permanent record. A register of such land will also be kept in the Range Office with traces of the sites.

Under G. O. No. D. 676/F. 15 (18) Rev. A/56 dated 28-3-58 Government have issued the following instructions to the Collectors for issue of felling licences by Tehsildars for private forests under the Tenancy Act, 1955:

Several cases have come to the notice of Government in which there has been grave misuse by land-holders and tenants of the concession of removing of trees for agricultural and domestic use allowed to them by Section 84 of the Rajasthan Tenancy Act, 1955 (Rajasthan Act II of 1955); and what is still more
serious gross misuse of the power of issuing licences for removal of trees conferred on Tehsildars by Sub-Section (6) of that Section and by Rules 32.33 of the Rajasthan Tenancy (Board of Revenue Rules, 1955).

The permission to remove trees standing on unoccupied land given to the land-holders by Sub-Section (1) of Section 84 of the Tenancy Act is subject to the condition that the wood is required for their own domestic or agricultural use. Similarly, the permission to remove trees standing on their holdings given to tenants by Sub-Sections (2) and (3) of the same section is also subject to the condition that the wood is required for the tenants own domestic or agricultural use; and Section 83 of the Act makes it clear that notwithstanding anything to the contrary in any law, custom or contract, no trees standing on occupied or unoccupied land shall be removable therefore except as provided in Section 84.

The power of issuing licences given to Tehsildars by Sub-Section (6) of Section 84 of the Act is subject to the provisions of the rules made by the Board of Revenue to given effect to the provisions of that section. These Rules are contained in Chapter VII, Rules 31-40, of the Rajasthan Tenancy (Board of Revenue) Rules, 1955.

The language used in the Act and the Rules make it perfectly clear that the intention was not to permit landholders or tenants to remove trees for commercial purpose except in so far as this is covered by the provisions of Rules 33 and 36.

Further, Tehsildars cannot issue certain categories of licences except in consultation with the Divisional Forest Officer concerned vide provision to sub-rule (2) of Rule 33 of the Rules, but several cases have come to the notice of Government in which Tehsildars did not consult the Divisional Forest Officer before issuing such licences and in which Tehsildars issued licences for the removal of hundreds of trees growing in private forests, or the cutting of thousands of Dandas, logs, etc.

asking the Collectors to direct their subordinate Tehsildar not to issue general licences under Rule 33 of the Rajasthan Tenancy (Board of Revenue) Rules, 1955 for the cutting of trees in forest lands, that circular seems to have had no effect and licences for the cutting of trees in forest lands are still being issued by some of the Tehsildars.

I am, therefore, directed to ask you kindly to take definite steps to see that your subordinate Tehsildars act strictly in accordance with the provisions of Section 84 of the Rajasthan Tenancy Act, 1955 (Rajasthan Act III of 1955) and of Rules 31-40 of the Rajasthan Tenancy Act, 1955 (Rajasthan Act III of 1955) and of Rules 31-40 of the Rajasthan Tenancy (Board of Revenue) Rules, 1955, and that they do not issue licences for the cutting of trees growing in private forests.

Relevant portions of the Rajasthan Tenancy Act and Rules concerning the Forest Department are reproduced in Volume I of the Manual. The following instructions may be noted: —

Section 84 of the Rajasthan Tenancy Act, 1955 provides that a land-holder, Khatedar tenant, Gair Khatedar tenant or a tenant of Khud Kasht or a sub-tenant can remove trees standing on the land in his possession only for domestic or agricultural use, and that not with standing anything contained in any of the sub-sections of the Section green trees cannot be removed except for agricultural use. Obviously it follows that private forests standing on unoccupied land cannot be felled for sale. On this ground all supplications for felling licences for forests standing on unoccupied land should be rejected, unless it is proved that the trees removed will be put to exclusive domestic or agricultural use of the owner and not of the contractor or any other person.

Sections 31 to 40 of the Rules made under the Tenancy Act deal with the rules on the provisions of Section 84. Section 33 of these rules provides for general licences and the conditions for removal of trees standing on unoccupied land including forest land are: —

(1) for extension of cultivation;
(2) plantation of new trees;

(3) replacement of old fruit trees

(4) if such trees are so dense in growth that they affect the fertility of the soil or otherwise cause damage to the soil or standing crop, if any.

None of these conditions are likely to be fulfilled by any contractor purchasing the trees standing on unoccupied land, and therefore their applications for felling licence could be rejected straight away.

(C.C.F.'s Memo No. 11014-26 dated 3-4-58.)