

CHAPTER 25

Rules and Procedures For Management of Non-Forest Lands

1. Forest Department Lands outside Government Forests

- 1.1. 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 preserved.
- 1.2. Such land is held usually for nurseries, roadside plantations, buildings, depots etc. outside Government Forest limits and is or has been acquired by allotment, 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.
- 1.3. It is desirable in all cases to have the title inquired into by the Forest Department and the transfer of the site recorded in the village, municipal local authorities records.
- 1.4. There should be a register of title deeds in the Divisional Office and a special file in which the deeds are preserved as permanent record. A register of such land will also be kept in the Range Office with traces of the sites.

2. Rajasthan Tenancy Act 1955

- 2.1. The Government have issued¹ detailed instructions to the Collectors for issue of felling licenses by Tehsildar from private forests under the Tenancy Act, 1955 stating that 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

1 G.O.No.D. 676/F.15 (18) Rev.A/56 dated 28.3.58

Act, 1955 (Rajasthan Act II of 1955); and what is still more serious gross misuse of the power of issuing licenses for removal of trees conferred on Tehsildars by Sub-Section (6) of that Section and by Rules 32, 33 of the Rajasthan (Board of Revenue Rules, 1955).

- 2.2. The permission to remove trees standing on holdings of tenant may be given to them under Sub-Sections (2) and (3) of the section 84 is also subject to the condition that the wood is required for the tenant's own bonafide 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 therefrom except as provided in Section 84.
- 2.3. The power of issuing licenses given to Tehsildars by Sub-Section (6) of Section 84 of the Act is also subject to Rules² made to give effect to the provisions of that section.
- 2.4. The language used in the Act and the Rules makes 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 24H. This Rule provides that the permission can be granted when (i) it helps any work of construction by and on behalf of the village community or (ii) if such removal is necessary for extension of cultivation or other agricultural activities of the tenant or (iii) if it will mitigate any real existing grievance of the tenant or (iv) if the existing trees are so dense that they affect the fertility of soil or otherwise cause damage to the soil or standing crops, if there be any.
- 2.5. Before giving permission the applicant has to give an undertaking that he shall plant and stabilise at the place indicated in the application two trees in lieu of one permitted except when the permission has been sought under clause (iv) of sub-section (1) of Rule 24H and there is no other part of the holding where trees could be conveniently planted.
- 2.6. Section 84 of the Rajasthan Tenancy Act, 1955 provides that a landholder, 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 notwithstanding 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

2 Rule 24EE to Rule 25 of Rajasthan Tenancy (Government) Rules, 1955.

ground all applications for felling licenses 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.

3. Exemption from Permission for Removal of certain tree species

3.1 In order to promote planting of seedlings of commercially and economically viable species on farmland, to increase vegetal cover and to provide a means for adding to the income of the farmer, State Govt. has provided³ that no permission shall be necessary for removal of Eucalyptus, Su-Babul, Ardu, Vilayati Babool, Israeli Babool, (Shisham and Desi Babool)⁴, standing on tenant's holding.

4. Removal of Trees planted by Forest Department from Government/Community land.

4.1. In compliance with the Supreme Court orders⁵ and the Government of India's letter⁶, the Government of Rajasthan has permitted⁷ the use of all Government / Community lands other than the notified Forest land, Forest land so entered in the Govt record and the 'deemed forest'⁸ lands for non-forestry purpose subject to the following conditions.

4.2. The User Agency shall pay for compensatory afforestation of degraded forest land twice in extent at prevailing rates of CA under Forest (Conservation) Act, 1980.

4.3. The user agency shall pay for the loss of forest produce at prevailing market rates and also arrange for harvesting and transportation of the forest produce to the nearest Forest Chowki/Naka/Range office and handing over to the concerned officer.

4.4. The User agency shall also take permission from the agency to which the land belongs.

4.5. The User agency shall develop a safety zone (Green belt) around the land allotted to it so that the adjoining forest remains unaffected.

4.6. The User agency shall all abide by all other Environmental / local laws as applicable.

3 No R6(23) Rev Gr IV/79/12-GSR 99 dt 29/6/89, Published in Rajasthan Gazette-4(Ga)I dated 4/6/92, pg 240-241.

4 No F.6(23) Rev Gr IV/79/4-S.O. 327 dt 22/2/91, Pub. in Raj Gaz-EO-4(Ga)(II) dated 22/2/91, pg 675.

5 WP No 202/95. Order dated 12/12/1996.

6 No. 11-37/2003-FC dt 30/08/2005.

7 Pa 1(4)Forest/96 Part dt 2/9/06.

8 As mentioned in GoR letter No. 1(19)Forest/2003 dt 15 Dec, 2007

- 4.7. The permission shall be granted subject to the above conditions by the concerning Deputy Conservator of Forests at his level considering the utility of the non-forestry project and ecological importance of the plantation.

5. Deemed Forest

- 5.1. The term, 'Deemed Forest' has been used in the report filed before the Supreme Court by the Central Empowered Committee on 6th June 2005. The State Government has clarified⁹ that the Forest (Conservation) Act, 1980 shall apply to this land. It covers following categories of land in Rajasthan.

5.1.1. All those contiguous areas of five ha or more which have at least 200 trees per ha.

5.1.2. All sacred Groves such as 'Orans', 'Dev Vans' etc.

5.1.3. Areas recorded as "Rundh" in Government records and notified as Reserve Forest during 1947 by the then Alwar State.

⁹ GoR letter No. 1(19)Forest/2003 dt 15 Dec, 2007