

Tamil Nadu Rosewood Trees (Conservation) Act, 1994

TAMILNADU

India

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Act 1 of 1995

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Tamil Nadu Rosewood Trees (Conservation) Act, 1994(Tamil Nadu Act 1 of 1995)Statement of Objects and Reasons. - Forests play a vital role in the development of the country and they are not only repository of invaluable forest wealth like, wood and minor forest produce but also they protect the rich bio-diversity and natural heritage of our country. Rose wood is one of the important wood species endemic in the Forests of Southern India, especially in Tamil Nadu. Rosewood species is slow growing in nature. It is an important timber tree mostly sought for the commercial exploitation. Owing to its high timber value, the trees are cut indiscriminately, as a result of which the Rosewood tree population is dwindling day by day and the Rosewood species have now become an endangered, threatened and rare species and there is possibility of the species becoming extinct.2. Further, cutting of this threatened species would severally affect the future regeneration and this rare species would vanish once for all from this State. In order to save this species, it has been decided in the public interest to prohibit felling, possession, transport and sale of Rosewood trees in the State for a period of fifteen years.3. The Bill seeks to give effect to the above decision.Published in Part IV-Section 1 of the Tamil Nadu Government Gazette Extraordinary, dated the 8th November 1994.Received the assent of the President on the 14th February 1995 and published in Part IV-Section 2 of the Tamil Nadu Government Gazette Extraordinary, dated 14th February 1995.An Act to provide for the conservation of rosewood trees in the State and for matters connected therewith or ancillary or incidental thereto.Whereas the population of rosewood trees are on the decline in view of vast felling, removal, transport and sale of rosewood trees due to its increased market value resulting in the extinction of its species in the forests of Tamil Nadu;And Whereas, rosewood tree is one of the important wood species endemic in the forests of Southern India, especially in Tamil Nadu;And Whereas, the rosewood is a rare species which is almost impossible to regenerate except by natural growth;And Whereas, under the existing provisions of law it is not possible to arrest the diminishing trend in the existence of rosewood trees in the State;And Whereas, to conserve the existing rosewood trees in the forest and in the interest of maintaining the heritage of forest, it has become necessary to prohibit the cutting, felling, transport, sale and possession of rosewood trees in the State immediately;Be it enacted by the Legislative

Assembly of the State of Tamil Nadu in the Forty-fifth Year of the Republic of India as follows:-

1. Short title, extent, commencement and duration.

(1) This Act may be called the Tamil Nadu Rosewood Trees (Conservation) Act, 1994. (2) It extends to the whole of the State of Tamil Nadu. (3) It shall come into force at once and remain in force for a period of fifteen years. (4) Upon the expiry of this Act, the provisions of section 8 of the Tamil Nadu General Clauses Act, 1891 (Tamil Nadu Act I of 1891) shall apply as if this Act has then been repealed by a Tamil Nadu Act. Notes. - This Act came into force on the 14th day of February 1995 and shall remain in force for a period of fifteen years, i.e., up to the 13th day of February 2010.

2. Definition.

- In this Act, unless the context otherwise requires, - (1) "Forest" includes waste or communal land containing trees, shrubs, and roads, pasture land, and any other class of land declared by notification by the Government to be a forest. Explanation. - For the purposes of this clause "communal land" means - (i) beds and buds of tanks and of supply, drainage, surplus or irrigation channels; (ii) threshing-floor, cattle-stands, village-sites and other lands which are set apart for the common use of the villagers; (2) "Government" means the State Government; (3) "prescribed authority" means, an authority, officer or person empowered by the Government, by notification, to be the prescribed authority for the purposes of this Act; (4) "Rosewood tree" includes Blackwood, rosewood, Indian rosewood and Malabar black wood, their stumps and brush woods and also includes rose wood trees when they have fallen or have been felled and all rose wood whether cut up or fashioned or hollowed out for any purpose or not.

3. Prohibition of cutting, etc., of rosewood tree.

- Notwithstanding anything contained in any law for the time being in force or in any custom or usage, or in any judgment, decree or order of any Court or other authority, no person shall cut, fell, girdle, lop, tap, uproot or bum or otherwise damage any rosewood tree in any forest or do any act likely to endanger its existence or result in the extinction of its species: Provided that dead or fallen rosewood tree may be removed with the permission of the prescribed authority in accordance with such rules as may be prescribed.

4. Prohibition of transport, sale or possession of rosewood tree.

- No person shall transport, sell or have in his possession, any quantity of rosewood tree which was procured in contravention of the provisions of section 3.

5. Power of entry, inspection, etc.

(1) The Collector or any Forest Officer not below such rank as the Government may, by order, specify in this behalf, may, - (a) enter and inspect at any time by day or by night, any place in which it is

reasonably suspected that an offence under this Act has been, or is being, committed;(b)seize any rosewood tree in respect of which he has reason to believe that any provision of this Act has been, is being, or is about to be contravened along with the packages, coverings or receptacles in which such rosewood tree is found or tools or weapons used for the commission of the offence or animals, vehicles, vessels, boats or conveyances used in carrying such rosewood tree and thereafter take all measures necessary for securing the production of the packages, covering, receptacles, tools, weapons, animals, vehicles, vessels, boats or conveyances so seized, in a Court and for their safe custody pending such production.(2)All searches under sub-section (1) shall be made in accordance with the provisions of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974).

6. Offences and penalties.

(1)Any person who contravenes any provisions of this Act, or any rule or order made thereunder shall, on conviction, be punishable with imprisonment for a term which may extend to five years and with fine which may extend to twenty thousand rupees:Provided that-(a)for a first offence, the term of such imprisonment shall not be less than two years and such fine shall not be less than seven thousand and five hundred rupees;(b)for a second or subsequent offences, the term of such imprisonment shall not be less than three years and such fine shall not be less than fifteen thousand rupees.(2)When any person is convicted of an offence against this Act, the Court trying the offence may order that any rosewood tree in respect of which the offence has been committed, and any package, covering, receptacle tool, weapon, animal, vehicle, vessel, boat or conveyance used in the commission of the said offence be forfeited to the Government and such forfeiture shall be in addition to any other punishment that may be awarded for such offence.

7. Offences by companies.

(1)Where an offence punishable under this Act has been committed by a company, every person, who at the time, the offence was committed, was in-charge of, and was responsible to, the company, for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.(2)Notwithstanding anything contained in sub-section (1), where any offence under this Act, has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.Explanation. - For the purposes of this section -(a)"company" means any body corporate and includes firm or other association of individuals; and(b)"director" in relation to a firm means a partner in the firm.

8. Offences under this Act to be cognizable.

(1) Any offence punishable under this Act shall be a cognizable offence within the meaning of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974). (2) No Court shall take cognizance of any offence punishable under this Act except upon a complaint in writing by the prescribed authority or an officer generally or specially authorised by the Government in this behalf.

9. Jurisdiction of Criminal Court.

(1) No Court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any offence punishable under this Act. (2) Notwithstanding anything contained in section 29 of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974) it shall be lawful for a Metropolitan Magistrate or a Judicial Magistrate of the first class to try any offence punishable under this Act.

10. Presumption as to commission of offence in respect of rosewood tree.

- Whenever any person is accused of any offence under this Act in respect of any rosewood tree, it shall be presumed until the contrary is proved that such person has committed such offence.

11. Protection of action taken in good faith.

- No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act.

12. Act to over-ride other laws, contracts, etc.

- The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force, or any custom, usage or contract or judgment, decree or order of a Court or other authority.

13. Power to make rules.

(1) The Government may make rules to carry out the purposes of this Act. (2) (a) All rules made under this Act shall be published in the Tamil Nadu Government Gazette and unless they are expressed to come into force on a particular day, shall come into force on the day on which they are so published. (b) All notifications issued under this Act shall, unless they are expressed to come into force on a particular day, come into force on the day on which they are so published. (3) Every rule made or notification issued under this Act and every order made under section 14 shall, as soon as possible after it is made or issued, be placed on the table of the Legislative Assembly and if before the expiry of the session in which it is so placed or the next session, the Assembly makes any modification in any such rule, notification or order or the Assembly decides that the rule, notification or order should not be made or issued, the rule, notification or order shall, thereafter, have effect only in such modified form or be of no effect, as the case may be, so, however, that any

such modification or annulment shall be without prejudice to the validity of anything previously done under that rule, notification or order.

14. Power to remove difficulties.

- If any difficulty arises in giving effect to the provisions of this Act, the Government may, by an order published in the Tamil Nadu Government Gazette, make such provisions not inconsistent with the provisions of this Act as appear to them to be necessary or expedient for removing the difficulty: Provided that no such order shall be made after the expiry of two years from the date of the commencement of this Act.