

**Documentary Evidences in support of the rights claimed under “the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006**

**Evidence for determination of forest rights:** Claims on forest rights preferred under the Forest Rights Act require supporting evidences which are to be submitted while making claims. As per Rule 11 (1) (a) at least two evidences are required along with the claims submitted in the prescribed forms.

**Different Categories of Evidences:** The various categories of evidence that can be used in support of the claims on forest rights are described in Rule 13.

Category	List of Evidence
<b>Records and Documents</b>	<p>(a) <b>Public Documents</b>, Government records such as Gazetteers, Census, survey and settlement reports, maps, satellite imagery, working plans, management plans, micro-plans, forest enquiry reports, other forest records, record of rights by whatever name called, <i>pattas</i> or leases, reports of committees and commissions constituted by the Government, Government orders, notifications, circulars, resolutions;</p> <p>(b) <b>Government authorized documents</b> such as voter identity card, ration card, passport, house tax receipts, domicile certificates;</p> <p>(d) <b>Quasi-judicial and judicial records</b> including court orders and judgments;</p> <p>(e) <b>Research studies, Documentation of customs and traditions</b> that illustrate the enjoyment of any forest rights and having the force of customary law, by reputed institutions, such as Anthropological Survey of India;</p> <p>(f) <b>Any record including maps</b>, record of rights, privileges, concessions, favours, from erstwhile princely States or provinces or other such intermediaries;</p>
<b>Physical</b>	<p>(c) <b>Physical attributes</b> such as house, huts and permanent improvements made to land including levelling, bunds, check dams and the like;</p> <p>(g) <b>Traditional structures</b> establishing antiquity such as wells, burial grounds, sacred places;</p>
<b>Oral and others</b>	<p>(h) <b>Genealogy tracing ancestry</b> to individuals mentioned in earlier land records or recognized as having been legitimate resident of the village at an earlier period of time;</p> <p>(i) <b>Statement of elders</b> other than claimants, reduced in writing.</p>
<b>Evidence for community Rights</b>	<p>(a) <b>community rights</b> such as <i>nistar</i> by whatever name called;</p> <p>(b) <b>Traditional grazing grounds</b>; areas for collection of roots and tubers, fodder, wild edible fruits and other minor forest produce; fishing grounds; irrigation systems; sources of water for human or livestock use, medicinal plant collection</p>

	territories of herbal practitioners; (c) <b>Remnants of structures</b> built by the local community, sacred trees, groves and ponds or riverine areas, burial or cremation grounds;
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Evidences in support of the claims are to be written in the forms clearly. The Forest Rights Committee can receive further evidence or record from the claimant and witnesses during field verification.

**How to use evidences provided in the website:**

In the web site following documentary evidences are available.

1. **Rights and Concessions from Forest Enquiry Report**
2. **Abstracts from Working/Management Plans**
3. **List of Forest/Un-surveyed villages located inside the forestland from Census Report**
4. **List of Pre-1980 occupants**

**Serial number 1 & 2:**

**About Forest Enquiry Committee Report:**

The Government of Orissa constituted a committee on 9<sup>th</sup> May 1957 (Resolution No. 8515-CF) under Chairmanship of the then Development Minister Late Shri Radhanath Rath. One of the major objectives in forming such Committee by the Government of Orissa was to bring uniformity among the rights and concession enjoyed by the people prevailed in different ex-States and estates that merged with the old province of Orissa.

The Committee extensively made visit to throughout the State and recorded the rights and concessions prevailed in different ex-States and estates from the available records which was annexed in **Appendix – IX** under Rights and Concessions head of the final report submitted by the Committee to Government of Orissa.

**Abstract from ToR**

“With the merger of the ex-State areas with the old province of Orissa, a substantial area of forests was added to the State of Orissa. With the vesting of various estates under the processes of the Estate Abolition Act some more areas of forest have been brought under the control of the State Government. Each of the ex-States had its own forest administration, and though there was a Forest Adviser of the Eastern States to bring about uniformity in administration, at the time merger different practices and different rules were still persisting in the various ex-States. ++ In the estates which were vested in the State Government under the Estate Abolition Act there were also different practices prevailing according to custom and permission. The rights and concessions enjoyed by the people with regard to forest produce have been conditioned differently at different places according to historical facts and exigencies of circumstances.”

Some of the rights and concessions mentioned in the Forest Enquiry Committee Report also reflected in the working/management plan of the State Forest Department.

Irony is that whatever rights and concessions were enjoyed by the people never been acknowledged or recognized by the State Forest Department. For example, in most of the ex-States there were two types of Reserved Forests, namely 'A' and 'B' class Reserved Forests. The difference between the two class of Reserved Forests was that in most of the A class Reserved Forests the rights were limited while in B class Reserved Forests people can collect timber, fire wood, minor forest produce and etc. Even grazing was also allowed in the B class Reserved Forests. Further, there was no restriction for aboriginal tribes.

But through an amendment in Indian Forest Act, 1927 all most all Reserved Forests irrespective of their classification brought under single category as 'Deemed Reserved Forests' and the rights and concessions that were enjoyed by the people ceased to exist. This amendment caused immense problem for the local people, which has described as 'historical injustice' in 'The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006. In order to restore those rights and concessions enjoyed by the local people including the aboriginal tribes, Forest Rights Act, 2006 has a made special provision under sub-section (b), (c) and (d) of section 3(1). These sub-sections are primarily coming under the category of Community Rights.

Further, the rules framed under the Forest Rights Act mentions that at least two evidences are required along with the claims submitted in the prescribed forms. As per the Rule 13 of Forest Rights Rule, 2007, Public Documents that includes "*Government records such as Gazetteers, Census, survey and settlement reports, maps, satellite imagery, working plans, management plans, micro-plans, forest enquiry reports, other forest records, record of rights by whatever name called, pattas or leases, reports of committees and commissions constituted by the Government, Government orders, notifications, circulars, resolutions;*" are considered as evidence.

### **About Working Plan and Management Plan:**

Working plan or Management plan is a statutory document prepared for management of Forests. Working Plans are prepared for the management of forest areas which are coming under the Territorial wings, while management plan forms a part of Wildlife Wings of State Forest Department. In this plan document there are a number of chapters, of which there is one chapter titled as 'Past System of Management', which describes general history of forest governance in concern forest division. This chapter is very important in order to understand the forest governance history and act accordingly for ensuring rights of forest dwellers under Forest Rights Act, 2006. The plan document is available in each 'Divisional Forest Office' and this can be obtained from the DFO through using the provisions of Forest Rights Rule, 2007.

In many of the Working Plans under same chapter there is a point titled as '***Rights and Concessions***', while in some of the plan documents this point can be found either in the **Miscellaneous Regulations** or in the **Appendix**. Under this point various community rights such as minor forest produce, firewood, grazing, use of water bodies, right of ways, other traditional and customary uses specific to local communities are mentioned. The Admitted Rights & Concessions are also forms as part of the evidences as mentioned under the Rule 13 of Forest Rights Rule, 2007.

In order to fulfill this mandatory need as mentioned under Forest Rights Rule, 2007 the requisite portions can be used as one of the evidence for the rights claimed under the sub-

section (b), (c) and (d) of section 3(1) of the Forest Rights Act, 2006. **In other word the rights claimed in Form B under the sub-serial number (1), (2), (3) of serial No. 5, the requisite portion/page can be attached with the Claim Form ‘B’.**

### **Using of Forest Enquiry Report as Evidence:**

#### **1<sup>st</sup> Step:**

☞ *Download the document* titled as “Present Status of Ex-States and e-States”.

#### **2<sup>nd</sup> Step:**

☞ *Find your District:* - In this document, you will see there are four columns as mentioned below. Against each district, you can find either name of ex-State(s) or e-state(s) or both.

Name of the District	Name of the ex-State	Name of the e-State	British controlled areas
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#### **3<sup>rd</sup> Step:**

☞ *Determination of village Status during pre-merger scenario:* Ask the village elder about the history of the village. During documentation of history of village, just ask a question, under which ex-State or e-State this village was governed? OR you can ask either the name of the King (Raja) or Zamindar (In most of the e-states the chiefs were known as Zamindars). OR if there is any receipts of ‘Khajana’ or ‘veti’ or ‘Nistaripatra’ or ‘kudkipatta’ from that you can also ascertain the status of the village. If you are unable to determine the exact status of the village, you can take help of the some retired revenue officials.

#### **4<sup>th</sup> Step:**

☞ *Take Print out of the appropriate ex-State or e-state portion:* After obtaining the pre-merger status of the village, take print out of the appropriate ex-State or e-state by clicking on it.

#### **5<sup>th</sup> Step:**

- ☞ *Attach the evidence with Claim Form ‘B’:* While you are attaching the relevant page as evidence, please mention it under the rights for which you have used this page as evidence.
- ☞ For easier identification please give a code or reference number on the top of the evidence and mention under the rights as “for these or above or for the rights claimed in the Form ‘B’ under sub-serial number 1, 2 & 3 of Serial Number 5 the evidence titled as “Rights and Concessions in \_\_\_\_ ex-state or e-state is attached bearing a serial number\_\_\_\_\_.”

### **Important Note:**

- ❖ **Please don’t forget to take print out of the Cover Page and attach it on the relevant page. The cover page is same for all ex-State/e-state/ British Controlled areas.**
- ❖ **It is to be understood that these documents when used as evidence serve only to support claim on traditional use and access but does not limit the scope of the claims which might be more than what is referred to in the documents.**

1. **Forest Village:** Detail list of forest villages and un-surveyed villages is collected from census 2001 and is provided in the evidence part. District wise list of the forest villages can be searched and used in the process of Gram Sabha and formation of Forest Rights Committee and also along with the claims for conversion of forest villages into revenue villages under section 3 (1)(h).
2. **Pre 80:** List of pre-80 occupations is collected through RTI and is provided forest division wise. These references can be used in support of claims on individual claims on cultivation provided under section 3 (1) (a) of the Forest Rights Act.