

Treasure Trove Act, 1878

6 of 1878

[13 February 1878]

CONTENTS

CHAPTER 1 :- PRELIMINARY

1. Short title
2. Repeal of enactments
3. Interpretation-clause

CHAPTER 2 :- PROCEDURE ON FINDING TREASURE

4. Notice by finder of treasure
5. Notification requiring claimants to appear
6. Forfeiture of right on failure to appear
7. Matters to be enquired into and determined by the Collector
8. Time to be allowed for suit by person claiming the treasure
9. When treasure may be declared ownerless
10. Proceedings subsequent to declaration
11. When no other person claims as owner of place, treasure to be given to finder
12. When only one such person claims and his claim is not disputed, treasure to be divided
13. In case of dispute as to ownership of place, proceedings to be stay- ted
14. Settlement of such dispute
15. And division thereupon
16. Power to acquire the treasure on behalf of Government
17. Decision of Collector final, and no suit to lie against him for acts done bona fide
18. Collector to exercise powers of Civil Court
19. Power to make rules

CHAPTER 3 :- PENALTIES

20. Penalty on finder failing to give notice, etc
21. Penalty on owner abetting offence under section 20

SCHEDULE 1 :- SCHEDULE I

Treasure Trove Act, 1878

6 of 1878

[13 February 1878]

STATEMENT OF OBJECTS AND REASONS "The law of treasure trove is in a very unsatisfactory state. At present, there is one law in Madras and another in Bengal, while it is doubtful what the law is in Bombay, and in the three Presidency-towns probably the English law prevails. Moreover, the law everywhere is bad and ineffective, and gives every inducement to finders to conceal or make away with their discoveries; and yet there is a good deal of treasure buried in India and much of it of very high antiquarian and historical interest. Under these circumstances, the present Bill has been prepared. It provides, among other things, that- (a) the finder shall give notice to the Collector of the District of the discovery of treasure, and either deposit the treasure in the Government Treasury, or give security for producing it when required; (b) notice shall be given by the Collector to the owner or owners of the land where the treasure was found; (c) the discovery of the treasure shall be advertised, and all claimants desired to come forward within six months; (d) if there is reason to believe that the treasure was hidden or deposited more than a hundred years previously, no claim of any outside person shall be admitted; (e) in the case of treasure found in a public place, such as in digging a road, a railway, or a canal, such treasure shall vest, if more than a hundred years old, or if unclaimed, in the proportion of three-fourths in the finder and one-fourth in Government; and (f) if the land or other property on which the treasure is found belongs to a private party, then the latter shall receive the Government share, unless the finder has made any previous agreement with such owner or owners in which case the division shall be regulated according to that agreement. The Bill adopts the principle of certain recent legislation in the north of Europe, which has practically worked well." -Gazette of India. 1876. Part V, p. 1463.

CHAPTER 1
PRELIMINARY

1. Short title :-

This Act may be called THE INDIAN TREASURE TROVE ACT, 1878. Extent It extends to the whole of India except 1 [the territories which, immediately before the 1st November 1956, were comprised in Part B States]. 2 [xxx].

1. Substituted for the words "Part B States" by 2 A. L. O., 1956 (w.e.f. 1-11-1956).

2. The words "And it shall come into force at once" were omitted by the Repealing and Amending Act, 1914 (10 of 1914).

2. Repeal of enactments :-

[Repealed by the Repealing and Amending Act, 1891 (12 of 1891), S. 2 and Sch. I.]

3. Interpretation-clause :-

In this Act- "Treasure." "treasure" means anything of any value hidden in the soil, or in anything affixed thereto; "Collector". "Collector" means (1) any Revenue-officer in independent charge of a district, and (2) any officer appointed by the 1 [State Government] to perform the functions of a Collector under this Act. "Owner." When any person is entitled, under any reservation in an instrument of transfer of any land or thing affixed thereto, to treasure in such land or thing, he shall, for the purposes of this Act, be deemed to be the owner of such land or thing.

1. Substituted for the words "Provincial Government" by A.L.O., 1950.

CHAPTER 2

PROCEDURE ON FINDING TREASURE

4. Notice by finder of treasure :-

Whenever any treasure exceeding in amount or value ten rupees is found, the finder shall, as soon as practicable, give to the Collector notice in writing-

(a) of the nature and amount or approximate value of such treasure,

(b) of the place in which it was found;

(c) of the date of the finding; and either deposit the treasure in the nearest Government treasury, or give the Collector such security as the Collector thinks fit, to produce the treasure at such time and place as he may from time to time require.

5. Notification requiring claimants to appear :-

On receiving a notice under section 4, the Collector shall, after making such enquiry (if any) as he thinks fit, take the following steps (namely):-

(a) he shall publish a notification in such manner as the 1 [State

Govern- ment] from time to time prescribes in this behalf, to the effect that, on a certain date (mentioning it) certain treasure (mentioning its nature, amount and approximate value) was found in a certain place (mention- ing it); and requiring all persons claiming the treasure, or any part thereof, to appear personally or by agent before the Collector on a day and at a place therein mentioned, such day not being earlier than four months, or later than six months, after the date of the publication of such notification;

(b) when the place in which the treasure appears to the Collector to have been found was at the date of the finding in the possession of some person other than the finder, the Collector shall also serve on such per- son a special notice in writing to the same effect.

1. Substituted for the words "Provincial Government" by A.L.O., 1950.

6. Forfeiture of right on failure to appear :-

Any person having any right to such treasure or any part thereof, as owner of the place in which it was found or otherwise, and not appearing as required by the notification issued under section 5 , shall forfeit such right.

7. Matters to be enquired into and determined by the Collector :-

On the day notified under section 5 , the Collector shall cause the treasure to be pro- duced before him, and shall enquire as to and determine-

(a) the person by whom, the place in which, and the circumstances under which, such treasure was found; and

(b) as far as is possible, the person by whom, and the circumstances under which, such treasure was hidden.

8. Time to be allowed for suit by person claiming the treasure :-

If, upon an enquiry made under section 7 , the Collector sees reason to believe that the treasure was hidden within one hundred years before the date of the finding, by a person appearing as required by the said notification and claim- ing such treasure, or by some other person under whom such person claims, the Collector shall make an order adjourning the hearing of the case for such

period as he deems sufficient, to allow of a suit being instituted in the Civil Court by the claimant, to establish his right.

9. When treasure may be declared ownerless :-

If upon such enquiry the Collector sees no reason to believe that the treasure was so hidden; or if, where a period is fixed under section 8 , no suit is instituted as afore- said within such period to the knowledge of the Collector; or if such suit is instituted within such period, and the plaintiffs claim is finally rejected; the Collector may declare the treasure to be ownerless. Appeal against such declaration. Any person aggrieved by a declaration made under this section may ap- peal against the same within two months from the date thereof to the Chief Controlling Revenue-authority. Subject to such appeal, every such declaration shall be final and conclu- sive.

10. Proceedings subsequent to declaration :-

Where a declaration has been made in respect of any treasure under section 9 , such treasure shall, in accordance with the provisions hereinafter contained, either be delivered to the finder thereof, or be divided between him and the owner of the place in which it has been found in manner hereinafter provided.

11. When no other person claims as owner of place, treasure to be given to finder :-

When a declaration has been made in respect of any treasure as aforesaid, and no person other than the finder of such treasure has appeared as required by the notification published under section 5 and claimed a share of the treasure as owner of the place in which it has been found, the Collec- tor shall deliver such treasure to the finder thereof.

12. When only one such person claims and his claim is not disputed, treasure to be divided :-

When a declaration has been made as aforesaid in respect of any treasure, and only one person other than the finder of such treasure has so appeared and claimed, and the claim of such person is not disputed by the finder, the Collector shall proceed to divide the treasure be- tween the finder and the person so claiming according to the following rule (namely):- If the finder and the person so claiming have not entered into any agree- ment then in

force as to the disposal of the treasure, three-fourths of the treasure shall be allotted to such finder and the residue to such person. If such finder and such person have entered into any such agreement, the treasure shall be disposed of in accordance therewith: Provided that the Collector may in any case, if he thinks fit, instead of dividing any treasure as directed by this section,-

(a) allot to either party the whole or more than his share of such treasure, on such party paying to the Collector for the other party such sum of money as the Collector may fix as the equivalent of the share of such other party, or of the excess so allotted, as the case may be; or

(b) sell such treasure or any portion thereof by public auction and divide the sale-proceeds between the parties according to the rule hereinbefore prescribed: Provided also, that when the Collector has by his declaration under section 9 rejected any claim made under this Act by any person other than the said finder or person claiming as owner of the place in which the treasure was found, such division, shall not be made until after the expiration of two months without an appeal having been presented under section 9 by the person whose claim has been so rejected, or, when an appeal has been so presented, after such appeal has been dismissed. and shares to be delivered to parties. When the Collector has made a division under this section, he shall deliver to the parties the portions of such treasure, or the money in lieu thereof, to which they are respectively entitled under such division.

13. In case of dispute as to ownership of place, proceedings to be stayed :-

When a declaration has been made as aforesaid in respect of any treasure, and two or more persons have appeared as aforesaid and each of them claimed as owner of the place where such treasure was found, or the right of any person who has so appeared and claimed is disputed by the finder of such treasure, the Collector shall retain such treasure and shall make an order staying his proceedings with a view to the matter being enquired into and determined by a Civil Court.

14. Settlement of such dispute :-

Any person who has so appeared and claimed may, within one month from the date of such order, institute a suit in the Civil Court to obtain a decree declaring his right; and in every such suit the

finder of the treasure and all persons disputing such claim before the Collector shall be made defendants.

15. And division thereupon :-

If any such suit is instituted and the plaintiffs claim is finally established therein, the Collector shall, subject to the provisions of section 12 , divide the treasure between him and the finder. If no such suit is instituted as aforesaid, or if the claims of the plaintiffs in all such suits are finally rejected, the Collector shall deliver the treasure to the finder.

16. Power to acquire the treasure on behalf of Government :-

The Collector may, at any time after making a declaration under section 9 , and before delivering or dividing the treasure as herein before provided, declare by writing under his hand his intention to acquire on behalf of the Government the treasure, or any specified portion thereof, by payment to the persons entitled thereto of a sum equal to the value of the materials of such treasure or portion, together with one-fifth of such value, and may place such sum in deposit in his treasury to the credit of such persons; and thereupon such treasure or portion shall be deemed to be the property of Government, and the money so deposited shall be dealt with, as far as may be, as if it were such treasure or portion.

17. Decision of Collector final, and no suit to lie against him for acts done bona fide :-

No decision passed or act done by the Collector under this Act shall be called in question by any Civil Court, and no suit or other proceeding shall lie against him for anything done in good faith in exercise of the powers hereby conferred.

18. Collector to exercise powers of Civil Court :-

A Collector making any enquiry under this Act may exercise any power conferred by Code of Civil Procedure, 1908 on a Civil Court for the trial of suit.

19. Power to make rules :-

The 1[State Government] may, from time to time, make rules 2consistent with this Act, to regulate proceedings hereunder. Such rules shall, on being published in the 3 [Official Gazette], have the force of law.

1. Substituted for the words "Provincial Government" by A.L.O., 1950.

2. Some of the Rules made under this Act are:- (a) A. P. Treasure Trove Rules, 1959-A. P. Gaz., 2-7-1959, Pt. II (R.S.), p. 182. (b) Assam Treasure Trove Rules, 1958-Assam Gaz, 26-11-1958, Pt. II-A, p. 2631. (c) Bombay Treasure Trove Rules, 1959-Bom. Gaz., 23-7-1959, Pt. IV-A, p. 1704. (d) Goa, Daman and Diu Treasure Trove Rules, 1976-Goa Gaz., 30-9-1976, Sr I, p. 283. (e) M. P. Treasure Trove Rules, 1964-M. P. Gaz., 31-7-1964, Pt. IV (Ga), p. 299. (f) Manipur Treasure Trove Rules, 1968-Mani. Gaz., 4-7-1968, Ext. (g) Indian Treasure Trove (Pondicherry) Rules, 1965-Pondi. Gaz., 22-11-1965, Ext., (No. 44) and Ibid, 5-5-1971, Ext. (No. 55). (h) Rajasthan Treasure Trove Rules, 1961-Raj. Gaz., 15-6-1961, Pt. IV (Ga), p.111 (i) W. B. Treasure Trove Rules, 1960-Cal. Gaz., 19-2-1960, Ext., p. 683.

3. Substituted for the words "Local Official Gazette" by A.O., 1937.

CHAPTER 3 PENALTIES

20. Penalty on finder failing to give notice, etc :-

If the finder of any treasure fails to give the notice, or does not either make the deposit or give the security, required by section 4 , or alters or attempts to alter such treasure so as to conceal its identity, the share of such treasure, or the money in lieu thereof to which he would otherwise be entitled, shall vest in Government. and he shall on conviction before a Magistrate, be punished with imprisonment for a term which may extend to one year, or with fine. or with both.

21. Penalty on owner abetting offence under section 20 :-

If the owner of the place in which any treasure is found abets, within the meaning of Indian Penal Code, 1860 , any offence under section 20 , the share of such treasure, or the money in lieu thereof to which he would otherwise be entitled, shall vest in Government, and he shall, on conviction before a Magistrate, be punished with imprisonment which may extend to six months, or with fine, or with both.

SCHEDULE 1

SCHEDULE I

[Repealed by the Repealing and Amending Act, 1891 (12 of 1891, S. 2 and Sch. 1.)]