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THE INDIAN TREASURE-TROVE ACT, 1878

ACT NO. 6 OF 1878[1]

[13*th February*, 1878.]

An Act to amend the law relating to Treasure-trove.

Preamble.—Whereas it is expedient to amend the law relating to treasure-trove; It is hereby enacted as follows:—

PRELIMINARY

1. Short title.—ThisAct may be called the Indian Treasure-trove Act, 1878.

Extent.—It extends to the whole of India except [2][the territories which, immediately before the 1st November, 1956, were comprised in Part B States].

[3]* * * * *

STATE AMENDMENT

Maharashtra

In the principal Act,—In section 1,—

(i) to the second paragraph the following proviso shall be added, namely:—

"Provided that on the commencement of the Indian Treasure-trove (Extension to Hyderabad and Saurashtra area of Bombay State) Act, 1957 (Bom. XXXIII of 1958), this Act shall also extend to and be in force in, the Hyderabad and Saurashtra area of the State of Bombay.";

(ii) against the proviso so inserted the marginal note "commencement in certain areas" shall be inserted;

[*Vide* Bombay Act XXXIII of 1958, s. 3]

2. [*Repeal of enactments*.] *Rep. by the Repealing and Amending Act,* 1891 (12 *of* 1891), *s.* 2 *and the First Schedule.*

1. This Act has been declared to be in force in—
Sonthal Parganas by the Sonthal Parganas Settlement Regulation (Reg. 3 of 1872), s. 3;
Khondmals District by the Khondmals Laws Regulation, 1936 (Reg. 4 of 1936), s. 3 and Sch.; and Angul District by the Angul Laws Regulation, 1936 (Reg. 5 of 1936), s. 3 and Sch.

It has also been declared, by notification under s. 3(*a*)of the Scheduled Districts Act, 1874 (14 of 1874), to be in force in the Scheduled Districts of Hazaribagh, Lohardaga and Manbhum, and Pargana Dhalbhum and the Kolhan in the District of Singbhum—*see* Gazette of India, 1881, Pt. I, p. 504 (The District of Lohardaga included at that time the present District of Palamau, which was separated in 1894; Lohardaga is now called the Ranchi District; *see* Calcutta Gazette, 1899, Pt. I. P. 44.)

It has been extended to and brought into force in Dadra and Nagar Haveli by Reg. 6 of 1963, s. 2 and Sch. I (w.e.f. 1-7-1965), to Goa, Daman and Diu by Reg. 11 of 1963, s. 3 (w.e.f. 1-2-1965) and Sch. and to the whole of the Union Territory of Lakshadweep by Reg. 8 of 1965, s. 3 and Sch. with modification (w.e.f. 1-10-1967).

The Act came into force in Pondicherry *vide* Reg. 7 of 1963, s. 3 and Sch. I.

The Act has been repealed in its application to Bellary District by Mysore Act 14 of 1955.

Amended in—
Bihar by Bihar Act 22 of 1947.
Madras by Madras Act 36 of 1949.
Punjab by Punjab Act 24 of 1960.
Andhra Pradesh by Andhra Pradesh Act 15 of 1972.

2. Subs. by the Adaptation of Laws (No. 2) Order, 1956, for "Part B States".

3. Thewords"And it shall come into force at once." rep. by Act 10 of 1914, s. 3 and II Schedule.

STATE AMENDMENT

3. Interpretation-clause.—Inthis 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 State Government to perform the functions of a Collector under this Act.

"Owner."—Whenany 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.

PROCEDURE ON FINDING TREASURE

4. Notice by finder of treasure.—Wheneverany 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 State Government 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 *(mentioning 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 person a special notice in writing to the same effect.

6. Forfeiture of right on failure to appear.—Anyperson having any right to such treasure orany 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 produced 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 claiming 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.—Ifupon 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 aforesaid within such period to the knowledge of the Collector; or

if such suit is instituted within such period, and the plaintiff's claim is finally rejected;

the Collector may declare the treasure to be ownerless.

Appeal against such declaration.—Anyperson aggrieved by a declaration made under this section may appeal against the same within two months from the date thereof to the Chief Controlling Revenue authority.[1]

Subject to such appeal, every such declaration shall be final and conclusive.

10. Proceedings subsequent to declaration.—When 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 Collector 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, and shares to be delivered to parties.—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 between 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 agreement 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 9by the person whose claim has been so rejected, or, when an appeal has been so presented, after such appeal has been dismissed.

1. For definition of Chief Controlling Revenue authority, *see* the General Clauses Act, 1897 (10 of 1897), s. 3(*10*).

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 plaintiff's 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 hereinbefore 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 is 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 the Code of Civil Procedure[1] (14 of 1882) on a CivilCourt for the trial of suits.

19.Power to make rules.—[2][The State Government may, from time to time, makerules consistent with this Act, to regulate proceedings hereunder.

[3][(2) Every rule made by the State Government under this Act shall be laid, as soon as may be after it is made, before the State Legislature.]

PENALTIES

20. Penalty on finder failing to give notice, etc.—If thefinder 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.

1. *See* now the Code of Civil Procedure, 1908 (5 of 1908).

2. Subs. by Act 4 of 2005, s. 2 and the Schedule (w.e.f. 11-01-2005)

3. Ins. by *ibid.,* s. 2 and the Schedule. (w.e.f. 11-01-2005)

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 the Indian Penal Code (45 of 1860), any offence under section 20, the share of such treasure, or the money in lieu thereof to which he wouldotherwise 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.

Maharashtra

after section 21, the following section be inserted, namely:—

"**22. Repeal and savings**.—The Hyderabad Treasure-Trove Act, 1322F (Hyd. III of 1322F), and the Indian Treasure-trove Act, 1878, as modified and applied by the State of Saurashtra (Application of Central and Bombay Acts) Ordinance, 1948 (San. Ord. XXV of 1948), are hereby repealed:

Provided that, notwithstanding such repeal, anything done or action taken (including any notice or security given, any forfeiture, determination, declaration, delivery, division, acquisition or order made, all rights, obligations and liabilities acquired, accrued or incurred, penalties imposed, and all

proceedings and appeals pending before the Collector, Chief Controlling Revenue Authority, Talukdar, Subedar, Board of Revenue or other authority, and all powers conferred therefor) by or under the provisions of any law so repealed shall be deemed to be done, taken given, made, acquired, accrued, incurred, imposed, pending or conferred, under the provisions of this Act, as if this Act had then been in force; and accordingly all such proceedings and appeals pending before any such authority as aforesaid shall stand transferred, where necessary, to the corresponding authority under this Act; and if no such authority exists or if there be a doubt as to the corresponding authority, to such authority as the State Government may designate, and shall be continued and disposed of before such authority in accordance with the provisions of this Act,".

[*Vide* Bombay Act XXXIII of 1958, s. 3].