
Indian Treasure-Trove (Himachal Pradesh Amendment) Act, 1972

16 OF 1972

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(Received the assent of the Governor, Himachal Pradesh, on the 20th October, 1972, and was published in R.H.P. Extra., dated the 16th November, 1972, at p. 1043-1047).

An Act to amend the Indian Treasure-Trove Act, 1878 (Central Act No.6 of 1878) in its application to the State of Himachal Pradesh.

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Twenty-third Year of the Republic of India as follows:-

1 For Statement of Objects and Reasons, see R.H.P. Extra., dated the 10th June, 1972, P. 530.

1. Short title, extent and commencement :-

(1) This Act may be called the Indian Treasure-Trove (Himachal Pradesh Amendment) Act, 1972.

(2) It extends to the whole of Himachal Pradesh.

(3) It shall come into force at once.

2. Insertion of new section 3-A in Central Act 6 of 1878 :-

After section 3 of the Indian Treasure-Trove Act, 1878 (6 of 1878), in its application to Himachal Pradesh (hereinafter referred to as the principal Act) the following section shall be inserted, namely:-

"3-A. Permission to discover.- The Government may on application allow any person to discover a treasure on such terms and conditions as it may deem fit."

3. Amendment of section 9 of Central Act 6 of 1878 :-

In section 9 of the principal Act, for the words "Chief Controlling Revenue Authority" the words "Financial Commissioner" shall be substituted.

4. Amendment of section 10 of Central Act 6 of 1878 :-

In section 10 of the principal Act, for the words "either be delivered to the finder thereof, or be divided between him", the words "be divided amongst the finder thereof, the Government" shall be substituted.

5. Amendment of section 11 of Central Act 6 of 1878 :-

In section 11 of the principal Act, for the words "such treasure to the finder thereof", the words "one-third of such treasure to the finder thereof and the remaining two-thirds shall vest in the Government : Provided that in the case of any agreement between the finder and the Government, the treasure shall be divided in accordance with the terms thereof.", shall be substituted.

6. Substitution of section 12 of Central Act 6 of 1878 :-

For section 12 of the principal Act, the following shall be substituted, namely:-

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

(1) 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 or the Government, the Collector shall proceed to divide the treasure between the finder, the Government and the person so claiming according to the provisions of subsection (2).

(2) If the Government, the finder and the person so claiming or any two of them have not entered into any agreement then in force as to the disposal of the treasure, one-half of the treasure shall be allotted to such finder and the owner in equal shares and the residue shall vest in the Government. If the Government, such finder and such person have entered into any such agreement the treasure shall be disposed of in accordance therewith. In case the Government and such finder only have entered into any such agreement three-fourths of the treasure shall be disposed of in accordance with terms thereof and the residue will be allotted to such claimant. If such finder and such claimant only have entered into any such agreement, one-half of the treasure shall be disposed of in accordance therewith and the remaining half shall vest in the Government:

Provided that the Collector may, in any case if he thinks fit, instead of dividing any treasure as directed by this sub-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 this subsection : Provided further 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.

(3) 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 division".

7. Amendment of section 13 of Central Act 6 of 1878 :-

Section 13 of the principal Act shall be numbered as sub-section (1) of that section and after sub-section (1) as so re-numbered, the following sub-sections shall be added, namely:-

"(2) If the right of any such person who has so appeared and claimed is disputed by the Government, the matter shall be determined by the Collector;

(3) Any person aggrieved by the decision of the Collector under sub-section (2) may appeal within two months of the date of such decision to the Financial Commissioner.

(4) Subject to the decision of the appellate authority, the decision of the Collector under sub-section (2) shall be final and conclusive".

8. Substitution of sections 15 and 16 of Central Act 6 of 1878 :-

For sections 15 and 16 of the principal Act, the following shall be substituted, namely:-

"15. Division of treasure on decision of the civil suit.-

(1) If any such suit is instituted and the plaintiffs claim is finally established therein or the right of the claimant has been accepted

by the Collector or on appeal by the Financial Commissioner, the Collector shall subject to the provisions of section 12, divide the treasure between him, the finder and the Government.

(2) If no such suit instituted as aforesaid, or if the claims of the plaintiff in all such suits are finally rejected or the right of the claimant has been rejected by the Collector and also by the Financial Commissioner in case of appeal, the Collector shall subject to the provisions of section 11, divide the treasure between the finder and the Government.

16. Power to acquire shares of owners and finder.-

The Collector may, at any time, after making a declaration under section 9 and before delivering to the finder or owner his share of the treasure as divided by him in accordance with the provisions of this Act, declare by writing under his hand his intention to acquire on behalf of the Government the share of the finder or owner or both, by payment to the persons entitled thereto, of sum equal to the value of the materials of their share or shares of the treasure, together with one-fifth of such value, and may place such sum in deposit in the treasury to the credit of such person; and thereupon such share or shares of the treasure shall be deemed to be the property of the Government and the money so deposited shall be dealt with, as far as may be, as if it were the share or shares of the treasure of such persons".

9. Repeal and savings :-

(1) The Indian Treasure-Trove (Punjab Amendment) Act, 1960 (24 of 1960), in its application to the territories added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966 (31 of 1966), is hereby repealed: Provided that the repeal shall not affect,-

(a) the previous operation of the Act so repealed or anything duly done or suffered thereunder, or

(b) any right, privilege, obligation or liability acquired, accrued or incurred under the Act so repealed, or

(c) any penalty, forfeiture or punishment incurred in respect of any offence committed against the Act so repealed, or

(d) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid; and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed as if this Act had not been passed.

(2) Subject to the provisions of the proviso to sub-section (1), anything done or any action taken under the Act repealed by sub-section (1) shall, in so far as it is not inconsistent therewith, be deemed to have been done or taken under the corresponding provision of the principal Act as amended by this Act and shall continue to be in force accordingly, unless and until superseded by anything done or any action taken under the principal Act as so amended.