

Treasure Trove Act, 1954

CONTENTS

1. Short Title
2. Application
3. Definitions
4. Owner
5. Notice By Finder Of Treasure
6. Procedure By Tehsildar On Receiving Notice
7. Procedure By The Deputy Commissioner On The Report Of Tehsildar
8. Notification Requiring Claimants To Appear
9. Forfeiture Of Right On Failure To Appear
10. Matters To Be Enquired Into And Determined By The Deputy Commissioner Or Tehsildar
11. Treasure How To Be Divided
12. Time To Be Allowed For Suit By Persons Claiming The Treasure
13. When Treasure May Be Declared Ownerless: Appeal Against Such Declaration
14. Proceedings Subsequent To Declaration
15. When No Other Person Claims As Owner Of Place Treasure To Be Given To Finder
16. When Only One Such Person Claims And His Claim Is Not Disputed, Treasure To Be Divided; And Shares To Be Delivered To Parties
17. In Case Of Dispute As To Ownership Of Place, Proceedings To Be Stayed
18. Settlement Of Such Dispute
19. And Division Thereupon
20. Power To Acquire The Treasure On Behalf Of Government
21. Decision Of Deputy Commissioner To Be Final; And No Suit To Lie Against Him For Acts Done Bona Fide
22. Officer Making Any Enquiry To Exercise Powers Of Civil Court
23. Power To Make Rules
24. Penalty On Finder Failing To Give Notice, Etc
25. Penalty On Owner Abetting Offence Under Section 24

Treasure Trove Act, 1954

Whereas it is expedient to enact the law relating to Treasure Trove, it is hereby commanded as follows:-

1. Short Title :-

This Act may be called the Jammu and Kashmir Treasure Trove Act.

2. Application :-

It shall not apply to a treasure which does not exceed in amount or value of ten rupees and is found from the house in which finder resides or from an Ahata belonging to the finder and which is in his actual possession. But if a treasure consisting of ancient coins, is found, the finder shall immediately deposit the treasure in the nearest Government Treasury. The finder of such a treasure shall be entitled to such a compensation as may be deemed reasonable by a competent authority after taking into consideration the value of the treasure or rate prevalent thereof.

3. Definitions :-

"Treasure" means anything of any value hidden in the soil, or in anything affixed thereto.

1[xxx]

1. Definition of "Chief Revenue Officer" deleted by Art III of 2008.

4. Owner :-

When a person is in possession of a land or of anything affixed thereto, in pursuance of the terms of a deed of transfer from the original owner, the person in possession shall be held to be bound by these rules if a treasure be found on that land.

5. Notice By Finder Of Treasure :-

Whenever any treasure exceeding in amount or value of ten rupees is found, the finder shall give to the 1[Deputy commissioner] having jurisdiction notice in writing as early as practicable-

(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 1[Deputy Commissioner] such security as the 1[Deputy Commissioner] may think fit to produce the treasure at such time and place as he may appoint.

1. Substituted by Act III of 2008 for "Governor" or Governor of the Province".

6. Procedure By Tehsildar On Receiving Notice :-

On receiving such a notice, the 1[Tehsildar] shall after making a summary enquiry (if any) submit a report regarding the following to the 1[Deputy Commissioner]-

- (i) the nature, amount, or value of the treasure found;
- (ii) the place in which the treasure was found;
- (iii) the name of the finder and of owner of the place in which the treasure is found;
- (iv) any other information which may be necessary to communicate in this behalf.

1. Substituted by Act III of 2008 for "Governor" or Governor of the Province".

7. Procedure By The Deputy Commissioner On The Report Of Tehsildar :-

On receiving such an information, the 1[Deputy Commissioner] shall if no summary enquiry under section 6, has been held, either hold an enquiry himself or direct the 1[Tehsildar] concerned to enquire into the matter.

1. Substituted by Act III of 2008 for "Wazir Wazarat" or "Wazar".

8. Notification Requiring Claimants To Appear :-

After an enquiry is held on spot, the 1[Deputy Commissioner] or the 2[Tehsildar] (if the 1[Deputy Commissioner] may make over the enquiry to him taking into consideration the difficulties to which the concerned persons will be subjected if ordered to appear at the 1[Deputy Commissioners] headquarters shall take the followings steps, namely:-

(a) He shall publish a notification to the effect that on a certain date, certain treasure mentioning its nature, amount and approximate value, was found in a certain place, requiring all persons claiming the treasure or any part thereof to appear personally or by agent before the 1[Deputy Commissioner] or the 2[Tehsildar,] as the case may be, on a day and at a place therein mentioned, such day not being earlier than 3 months, or later than 6 months, after the date of publication of a notification.

(b) When the place in which the treasure appears to the 1[Deputy Commissioner] to have been found was on the date of the finding in the possession of some person other than the finder, the 1[Deputy Commissioner] or the 2[Tehsildar,] as the case may be,

shall also serve on such other person a special notice in writing to the same effect.

1. Substituted by Act III of 2008 for "Governor".
2. Substituted by Act III of 2008 for "Wazir Wazarat".

9. Forfeiture Of Right On Failure To Appear :-

Any person having any right to such treasure on 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 8, shall forfeit such right.

10. Matters To Be Enquired Into And Determined By The Deputy Commissioner Or Tehsildar :-

On the day notified under section 8 the 1[Deputy Commissioner] or the 2[Tehsildar,] as the case may be, 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 possible the person by whom such treasure was hidden.

1. Substituted by Act III of 2008 for "Governor".
2. Substituted by Act III of 2008 for "Wazir Wazarat".

11. Treasure How To Be Divided :-

Subject to the rules which may be framed under provisions of this Act the treasure trove shall be divided up equally between the Government on one hand and the finder and the person appearing as required by the notification under section 8 and claiming such treasure, on the other.

12. Time To Be Allowed For Suit By Persons Claiming The Treasure :-

If on enquiry made under section 10, the 1[Deputy Commissioner] or the 2[Tehsildar] 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 1[Deputy Commissioner] 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 claimant to

establish his right.

1. Substituted by Act III of 2008 for "Governor".
2. Substituted by Act III of 2008 for "Wazir Wazarat".

13. When Treasure May Be Declared Ownerless: Appeal Against Such Declaration :-

If, upon such enquiry the 1[Deputy Commissioner] or the 2[Tehsildar,] as the case may be, sees no reason to believe that the treasure was so hidden, or if where a period is fixed under section 12, no suit is instituted as aforesaid within such period to the knowledge of the 1[Deputy Commissioner] or if such suit is instituted within such period and the plaintiffs claim is finally rejected the 1[Deputy Commissioner] may declare the treasure to be ownerless. Any person aggrieved by a declaration made under this section may appeal against the same within two months from the date thereof to the Revenue Minister.

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

1. Substituted by Act III of 2008 for "Governor".
2. Substituted by Act III of 2008 for "Wazir Wazarat" or "Wazar".

14. Proceedings Subsequent To Declaration :-

When a declaration has been made in respect of any treasure under section 13, half 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 the manner hereinafter provided and the remaining half shall be deposited in the Government treasury. A finder or owner of the place where treasure is found shall not be entitled to more than half the treasure.

15. 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 8 and claimed a share of the treasure as owner of the place in which it has been found the 1[Deputy Commissioner] shall deliver the share to the finder thereof.

1. Substituted by Act III of 2008 for "Governor".

16. When Only One Such Person Claims And His Claim Is Not Disputed, Treasure To Be Divided; And Shares To Be Delivered To Parties :-

When the 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 1[Deputy Commissioner] shall proceed to divide half of 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, one-fourth of the value of the treasure shall be allotted to the finder. And if the finder and such person have entered into any such agreement, the half of the amount of the treasure shall go to the Government and the remaining half shall be disposed of in accordance therewith:

Provided that the 1[Deputy Commissioner] may, in any case, if he thinks fit, instead of dividing the treasure as directed by the section-

(a) allot to either party the whole or more than his share of such treasure, on such party paying to 1[Deputy Commissioner] for the other party such sum of money, as the 1[Deputy Commissioner] 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 half the portion or any portion of that half by public auction and divide the sale proceeds between the parties according to the rule hereinbefore prescribed:

Provided also that when the 1[Deputy Commissioner] has by his declaration under section 13 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 13 by the person whose claim has been so rejected or when an appeal has been so presented after such appeal has been dismissed.

When the 1[Deputy Commissioner] has made a division under this section, he shall deliver to parties half of such treasure or the money in lieu thereof to which they are respectively entitled under such division.

1. Substituted by Act III of 2008 for "Governor".

17. 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 person who has so appeared and claimed is disputed by the finder of such treasure, the 1[Deputy Commissioner] shall deposit such treasure in the State treasury and shall make an order staying his proceedings with a view to the matter being enquired into and determined by a Civil Court.

1. Substituted by Act III of 2008 for "Governor".

18. 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 1[Deputy Commissioner] shall be made defendants.

1. Substituted by Act III of 2008 for "Governor".

19. And Division Thereupon :-

If any such suit is instituted and the plaintiffs claim is finally established therein, the 1[Deputy Commissioner] shall subject to the provisions of section 11, divide the treasure between him and the finder. If no such suit is instituted as aforesaid, or if the claim of the plaintiff in all such suits are finally rejected, the 1[Deputy Commissioner] shall deliver half the amount of the value of the treasure to the finder and the other half shall be the property of the Government.

1. Substituted by Act III of 2008 for "Governor".

20. Power To Acquire The Treasure On Behalf Of Government :-

The 1[Deputy Commissioner] may at anytime after making a declaration under section 8, 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 which is not less than half of it, by payment to the persons entitled thereto of a sum equal to

the value of the materials of such treasure or portion and may place such sum in deposit in the State Treasury to the credit of such persons, and thereupon such treasure or portion 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 such treasure or portion.

1. Substituted by Act III of 2008 for "Governor".

21. Decision Of Deputy Commissioner To Be Final; And No Suit To Lie Against Him For Acts Done Bona Fide :-

No decision passed or act done bona fide by the 1[Deputy Commissioner] under this Act shall be called in question by any Civil Court and no suit or other proceedings shall lie against him for anything done in good faith in exercise of the powers hereby conferred.

1. Substituted by Act III of 2008 for "Governor".

22. Officer Making Any Enquiry To Exercise Powers Of Civil Court :-

An officer making any inquiry under this Act may exercise any power conferred by the Code of Civil Procedure for the trial of suits.

23. Power To Make Rules :-

1[The Government may from time to time make rules to carry out the purposes of this Act.]

1. Substituted by Act X of 1996.

24. 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 security required by section 5, 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 1[the Government] and he shall, on conviction before a 2[Judicial Magistrate,] be punished with imprisonment for a term which may extend to one year, or with fine, or with both.

1. Substituted by Act X of 2010 for "His Highness Maharaja Bahadur".

2. Substituted by Act XL of 1966.

25. Penalty On Owner Abetting Offence Under Section 24 :-

If the owner of the place in which any treasure is found abets, within the meaning of the Ranbir Penal Code, any offence under section 24, the share of such treasure, or the money in lieu thereof to which he would otherwise be entitled, shall vest in 1[the Government] and he shall on conviction before a 2[Judicial Magistrate,] be punished with imprisonment which may extend to six months, or with fine or with both.

1. Substituted by Act X of 2010 for "His Highness Maharaja Bahadur".

2. Substituted by Act XL of 1966.