

THE KERALA TREASURE TROVE ACT, 1968
(Act 30 of 1968)

CONTENTS

PREAMBLE.

SECTIONS

Preliminary

1. Short title, extent and commencement.
2. Definitions.

Procedure on Finding Treasure Trove

3. Notice by finder of treasure trove.
 4. Notification requiring claimants to appear.
 5. Forfeiture of right on failure to appear.
 6. Matters to be enquired into and determined by the Collector.
 7. Time to be allowed for suit by person claiming the treasure trove
 8. When treasure trove may be declared ownerless.
 9. Proceeding subsequent to declaration.
 10. When no other person claims as owner of the place, treasure trove to be given to the finder.
 11. When only one person claims and his claim is not disputed, treasure trove to be divided.
 12. In case of dispute as to ownership of place, proceedings to be stayed.
 13. Settlement of dispute.
 14. Division of treasure trove on the establishment of claim in court.
 15. Power to acquire treasure trove on behalf of the Government.
 16. Decision of Collector final and no suit to lie against him for acts done in good faith.
 17. Collector to exercise powers of civil court.
 18. Penalty on finder failing to give notice, etc.
 19. Penalty on owner abetting offence under section 18.
 20. Penalty on owner or occupier for failure to give notice under section 3.
 21. Power to make rules.
 22. Repeal.
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TAE KERALA TREASURE TROVE ACT, 1968 *

Act 30 of 1968

An Act to unify the laws relating to treasure trove in the State of Kerala

Preamble.—WHEREAS it is expedient to unify the laws relating to treasure trove in the State of Kerala;

BE it enacted in the Nineteenth Year of the Republic of India as follows:—

Preliminary

1. *Short title, extent and commencement.*—(1) This Act may be called the Kerala Treasure Trove Act, 1968.

(2) It extends to the whole of the State of Kerala.

(3) It shall come into force at once.

2. *Definitions.*—In this Act, unless the context otherwise requires,—

(a) “Collector” means the Collector of a district or any other officer appointed by the Government to exercise the powers and perform the functions of a Collector under this Act;

(b) “owner”, in relation to any land or thing, means any person who is entitled, under any reservation in an instrument of transfer of such land or thing affixed thereto, to treasure trove in such land or thing;

(c) “treasure trove” means money, bullion or other valuables found hidden in the earth, the owner of which is unknown.

Procedure on Finding Treasure Trove

3. *Notice by finder of treasure trove.*—(1) Whenever any treasure trove—

(i) exceeding, in amount or value, twenty-five rupees; or

(ii) of historical, archaeological or artistic interest, whatever be its value,

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 trove;

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

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(c) of the date of the finding,

and shall either deposit the treasure trove in the nearest Government treasury or give the Collector such security as the Collector thinks fit, to produce the treasure trove at such time and place as he may, from time to time, require.

2. The owner of the place in which the treasure trove is found, if he is not the finder, and the occupier of such place if he is neither the finder nor the owner, shall also give notice in writing to the Collector specifying the particulars referred to in clauses (a), (b) and (c) of sub-section (1), before the expiry of one month from the date on which the owner or the occupier, as the case may be, becomes aware of the finding of the treasure trove.

(3) If any question arises as to whether the amount or value of a treasure trove exceeds twenty-five rupees or whether a treasure trove is of historical, archaeological or artistic interest, the question shall be referred to the Collector who shall decide the same and his decision shall be final:

Provided that where the question referred to is as to whether a treasure trove is of historical, archaeological or artistic interest, the Collector shall, before deciding the question, consult the Director of Archaeology.

4. *Notification requiring claimants to appear.*—(1) The Collector shall, on receipt of a notice under section 3, and may, on receipt of information in any other manner that a treasure trove has been found in any place, take the following steps after making such enquiry, if any, as he thinks fit to make, namely:—

(a) he shall publish a notification in such form and in such manner as may be prescribed by rules made under this Act requiring all persons claiming the treasure trove or any part thereof to appear personally or by agent before the Collector on a day and at a place therein specified, such day not being earlier than one month, or later than two months, after the date of the publication of such notification;

(b) when the place in which the treasure trove 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.

(2) Where the finder of a treasure trove fails to give notice as required under section 3 and the Collector receives information in any other manner that a treasure trove has been found, the Collector may, if he is satisfied that there is a likelihood of the treasure trove being removed, search for seize and take into custody, the treasure trove, before taking action under sub-section (1).

5. *Forfeiture of right on failure to appear.*—Any person having any right to such treasure trove 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 sub-section (1) of section 4 on the day specified in that notification, or on such subsequent day as may be fixed by the Collector for sufficient reason, shall forfeit such right.

6. *Matters to be enquired into and determined by the Collector.*—On the day specified in the notification under sub-section (1) of section 4 or on such subsequent day as may be fixed by the Collector under section 5, the Collector shall cause the treasure trove 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 trove was found; and

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

7. *Time to be allowed for suit by person claiming the treasure trove.*—If, upon an enquiry made under section 6, the Collector sees reason to believe that the treasure trove was hidden, within one hundred years before the date of the finding, by a person appearing as required by the notification under sub-section (1) of section 4 and claiming such treasure trove, 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 a suit being instituted in the civil court by the claimant, to establish his right.

8. *When treasure trove may be declared ownerless.*—(1) (i) If, upon such enquiry, the Collector sees no reason to believe that the treasure trove was hidden within one hundred years before the date of the finding; or

(ii) if, where a period is fixed under section 7, no suit is instituted as aforesaid within such period, to the knowledge of the Collector; or

(iii) if such suit is instituted within such period and the plaintiff's claim is finally rejected, the Collector may declare the treasure trove to be ownerless.

(2) Any person aggrieved by a declaration made under sub-section (1) may appeal against the same within two months from the date thereof to the Board of Revenue:

Provided that no appeal shall lie from a declaration made under sub-section (1) in a case referred to in clause (iii) of the said sub-section.

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

9. *Proceeding subsequent to declaration.*—When a declaration has been made in respect of any treasure trove under sub-section (1) of section 8, such treasure trove 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.

10. *When no other person claims as owner of the place, treasure trove to be given to the finder.*—When a declaration has been made in respect of any treasure trove as aforesaid, and no person other than the finder of such treasure trove has appeared as required by the notification under sub-section (1) of section 4 and claimed a share of the treasure trove as owner of the place in which it has been found, the Collector shall deliver such treasure trove to the finder thereof.

11. *When only one person claims, and his claim is not disputed, treasure trove to be divided.*—(1) When a declaration has been made as aforesaid, in respect of any treasure trove and only one person other than the finder of such treasure trove 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 trove between the finder and the person so claiming according to the provisions of sub-section (2).

(2) If the finder and the person so claiming have not entered into any agreement then in force as to the disposal of the treasure trove, three-fourths of the treasure trove 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 trove shall be disposed of in accordance with such agreement:

Provided that the Collector may, in any case, if he thinks fit, instead of so dividing the treasure trove,—

(a) allot to either party the whole, or more than his share, of such treasure trove, 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 trove or any portion thereof by public auction, and divide the sale proceeds between the parties according to the provisions of this sub-section:

Provided further that when the Collector has, by his declaration under sub-section (1) of section 8, 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 trove was found, such division shall not be made until after the expiration of two months if an appeal has not been presented under sub-section (2) of the said section 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 trove or the money in *lieu* thereof, to which they are respectively entitled under such division.

12. *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 trove, and two or more persons have appeared as aforesaid, and each of them claims as owner of the place where such treasure trove was found, or the right of any person who has so appeared and claimed is disputed by the finder of such treasure trove, the Collector shall retain such treasure trove and shall make an order staying his proceedings with a view to the matter being enquired into and determined by a civil court.

Settlement of 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 trove and all other persons disputing such claim before the Collector shall be made defendants.

14. *Division of treasure trove on the establishment of claim in court.*—(1) If any such suit is instituted and the plaintiff's claim is finally established therein, the Collector shall, subject to the provisions of section 11, divide the treasure trove between him and the finder.

(2) 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 trove to the finder.

15. *Power to acquire treasure trove on behalf of the Government.*—The Collector may, at any time after making a declaration under sub-section (1) of section 8, and before delivering or dividing the treasure trove as hereinbefore provided, declare, by writing under his hand, his intention to acquire, on behalf of the Government, the treasure trove 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 trove or portion, together with one-fifth of such value and may place such sum in deposit in a Government treasury to the credit of such persons; and thereupon such treasure trove 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 trove or portion:

Provided that the person entitled to payment under this section, if he questions the value of the materials or portion thereof fixed by the Collector, may, within two months from the date of the order of the Collector to acquire, institute a suit in the civil court to have the value of such materials fixed.

16. *Decision of Collector final and no suit to lie against him for acts done in good faith.*—Subject to the provisions of section 15 no decision passed or act done by the Collector under this Act shall be called in question in any civil court, and no suit or other proceedings shall lie against him for anything done in good faith in exercise of the power conferred by this Act.

17. *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, 1908 (Central Act 5 of 1908), on a civil court for the trial of suits.

18. *Penalty on finder failing to give notice, etc.*—If the finder of any treasure trove fails to give the notice, or does not either make the deposit or give the security, required by section 3, or alters or attempts to alter such treasure trove so as to conceal its identity, the share of such treasure trove or the money in lieu thereof to which he would otherwise be entitled, shall vest in the Government, and he shall, on conviction before a Magistrate, be punishable with imprisonment for a term which may extend to one year or with fine, or with both.

19. *Penalty on owner abetting offence under section 18.*—If the owner of the place in which any treasure trove is found abets, within the meaning of the Indian Penal Code (Central Act 45 of 1860), an offence under section 18, the share of such treasure trove or the money in lieu thereof to which he would otherwise be entitled, shall vest in the Government, and he shall, on conviction before a Magistrate, be punishable with imprisonment which may extend to six months, or with fine or with both.

20. *Penalty on owner or occupier for failure to give notice under section 3.*—If the owner or occupier of the place in which any treasure trove is found, being aware of the finding thereof, fails to give notice as required by sub-section (2) of section 3, he shall, on conviction before a Magistrate, be punishable with imprisonment which may extend to six months, or with fine, or with both.

21. *Power to make rules.*—(1) The Government may by notification in the Gazette, make rules for the purpose of carrying into effect the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for—

- (a) the form of notice under section 3;
- (b) the form and manner in which a notification under clause (a) of sub-section (1) of section 4 may be published;
- (c) the manner of service of the special notice under clause (b) of sub-section (1) of section 4;

(d) the manner in which search and seizure may be made under sub-section (2) of section 4,

(e) the form of declaration under sub-section (1) of section 8;

(f) the form in which an appeal may be preferred to the Board of Revenue under sub-section (2) of section 8,

(g) any other matter which has to be, or may be, prescribed by rules made under this Act.

(3) Every rule made under this Act shall be laid as soon as may be after it is made before the Legislative Assembly while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions, and, if before the expiry of the session in which it is so laid or the sessions immediately following, the Legislative Assembly agrees that the rule should be either modified or annulled, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

22. *Repeal.*—(1) The Travancore-Cochin Treasure Trove Act, 1951 (X of 1951) is hereby repealed.

(2) The Indian Treasure Trove Act, 1878 (Central Act 6 of 1878), as in force in the Malabar district referred to in sub-section (2) of section 5 of the States Reorganisation Act, 1956 (Central Act 37 of 1956), shall cease to operate in that district.
