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STATEMENT OF OBJECTS AND REASONS

I

Act 23 of 1963.- In the different areas of the new State of Mysore there are different laws in force relating to Treasure Trove. In the Bombay Area, Madras Area and Coorg District, the Indian Treasure Trove Act, 1878 (Central Act VI of 1878), is in force. In the Mysore Area and the Hyderabad Area, the Mysore Treasure Trove Act, 1910, and the Hyderabad Treasure Trove Act, 1322 F. (Hyderabad Act III of 1322 F.), respectively, are in force. It is considered desirable to have a uniform law applicable to the whole of the new State. Hence this Bill.

The salient provisions of the Bill are as follows:—

Whenever any treasure, that is, anything exceeding in amount or value rupees ten hidden in the soil or anything affixed to land is found, the finder thereof and the owner and occupier of the place in which the treasure is found should inform the Deputy Commissioner of the finding of treasure. The Deputy Commissioner will report the particulars to Government, the Director of Archaeology and the prescribed officer and publish a notification of the particulars and call upon persons interested in the treasure to appear for an inquiry. The Deputy Commissioner will determine whether the treasure was hidden by any person within one hundred years, and if any person claims the treasure and such person establishes his right by suit in a Civil Court, the treasure will be given to him. But if the Deputy Commissioner finds that the treasure was hidden more than one hundred years before it was found or no suit instituted as aforesaid of such suit is dismissed, the Deputy Commissioner may declare the treasure as ownerless. When such a declaration is made, if no person has claimed the treasure as owner of the place in which it was found, it shall be given to the finder; if any person claims it as owner of the place, the treasure should be divided between the finder the owner in equal shares, the finder not being entitled to more than one lakh of rupees, unless the parties agree to any other mode of division. The State Government may also acquire the treasure on payment of value of the material thereof together with one-fifth of such value.

Persons contravening the provisions of the Bill are liable to punishment on conviction.

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¹[KARNATAKA]¹ ACT No. 23 OF 1963

(First published in the ¹[Karnataka Gazette]¹ on the Twenty-seventh day of June, 1963.)

THE ¹[KARNATAKA]¹ TREASURE TROVE ACT, 1962

(Received the assent of the President on the Twenty-first day of February, 1963.)

An Act to consolidate and amend the law relating to treasure trove in the ¹[State of Karnataka]¹.

WHEREAS it is expedient to consolidate and amend the law relating to treasure trove in the ¹[State of Karnataka]¹;

BE it enacted by the ¹[Karnataka]¹ State Legislature in the Thirteenth Year of the Republic of India as follows:—

1. Adapted by the Karnataka Adaptations of Laws Order, 1973 w.e.f. 01.11.1973.

CHAPTER I

PRELIMINARY

1. Short title and extent.—(1) This Act may be called the ¹[Karnataka]¹ Treasure Trove Act, 1962.

(2) It extends to the whole of the ¹[State of Karnataka]¹.

1. Adapted by the Karnataka Adaptations of Laws Order, 1973 w.e.f. 01.11.1973.

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

(a) “Deputy Commissioner” means such officer as the State Government may by notification appoint to perform the functions of a Deputy Commissioner under this Act, and if no such officer is appointed, the Deputy Commissioner of the District;

(b) “Director” means the ¹[Director of Archaeology in Karnataka]¹ and includes any officer authorised by the State Government to perform the duties of the Director;

1. Adapted by the Karnataka Adaptations of Laws Order, 1973 w.e.f. 01.11.1973.

(c) “finder” means in the case of any treasure found in the course of work done at the express or implied direction of any person, such person and in any other case the person who finds the treasure;

(d) “notification” means a notification published in the official Gazette;

(e) “owner” in respect of any land or thing affixed to land, includes a person who is entitled under any law or instrument, to treasure in such land or thing:

Provided that where the land is the property of the Government, the Government shall be deemed to be the owner of the land or thing affixed thereto;

(f) “prescribed” means prescribed by rules made under this Act.

(g) “treasure” means anything of any value hidden in the soil or in anything affixed thereto.

CHAPTER II

NOTICE, ENQUIRY AND DECLARATION REGARDING TREASURE

3. Notice to Deputy Commissioner of finding of treasure.—(1) Whenever any treasure exceeding in amount or value ten rupees is found, the finder shall forthwith give to the Deputy Commissioner, notice in writing of,—

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

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

(c) the date of the finding;

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

(2) The owner of the place in which the treasure 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 Deputy Commissioner specifying the particulars referred to in clauses (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.

4. Notification by Deputy Commissioner.—The Deputy Commissioner shall, on receipt of a notice under section 3, and may, on receipt of information in any other manner that treasure has been found in any place, take the following steps after making such enquiry, if any, as he thinks fit, namely:—

(a) he shall send a report to the State Government, the Director and the prescribed officer, stating as far as possible, -

- (i) the name and other particulars of the finder;
- (ii) the name and other particulars of the owner and occupier of the land in which the treasure was found;
- (iii) the nature and details of the treasure;
- (iv) the approximate value of the treasure;
- (v) the place in which and the date on which the treasure was found;
- (vi) the origin and surrounding of the treasure;

(b) he shall publish a notification in the prescribed manner specifying the nature, amount and approximate value of the treasure and the date on which and the place at which such treasure was found and requiring all persons claiming the treasure, or any part thereof, to appear personally or by agent before the Deputy Commissioner at such time and place on such day as shall be specified in such notification, such day not being earlier than four months, or later than six months, after the date of publication of such notification;

(c) when the place in which the treasure appears to the Deputy Commissioner to have been found was at the date of the finding in the possession of, or belonged to, some person other than the finder, the Deputy Commissioner shall serve on such person and on the finder, a copy of the notification referred to in clause (b) as soon as may be, after its issue.

5. Forfeiture of right to treasure.—Any person having any right to the treasure notified under section 4 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 4, shall forfeit such right.

6. Enquiry by the Deputy Commissioner.—On the day specified in the notification under section 4, the Deputy Commissioner shall cause the treasure to be produced before him and shall, after giving an opportunity to the persons appearing to be heard, and after such inquiry as may be necessary, 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.

7. Suit by person claiming the treasure in certain cases.—(1) If upon an enquiry made under section 6, the Deputy Commissioner considers that there are reasons 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 notification under section 4, and claiming such treasure, or by some other person under whom such person claims, the 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 the claimant to establish his right.

(2) Where a claimant establishes his right to the treasure in a suit instituted under sub-section (1), the Civil Court may award the finder a reward not exceeding one-fourth the value of the treasure which shall be paid by the claimant establishing his right to the treasure.

8. Treasure to be declared ownerless in certain cases.— (1) (a) If upon an enquiry under section 7, the Deputy Commissioner considers that there are no reasons to believe that the treasure was hidden within one hundred years before the date of finding by a person referred to in sub-section (1) of section 7; or

(b) where a period is fixed under sub-section (1) of section 7 for institution of a suit in a Civil Court and no suit is instituted within such period to the knowledge of the Deputy Commissioner; or

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

the Deputy Commissioner may declare the treasure to be ownerless.

(2) When a declaration is made under sub-section (1), a report thereof shall be sent by the Deputy Commissioner to the State Government and the prescribed officer.

(3) Any person aggrieved by a declaration made under sub-section (1), may appeal against the declaration within sixty days from the date thereof to the ¹[Karnataka Revenue Appellate Tribunal]¹ and subject to such appeal, every such declaration shall be final and conclusive.

¹. Adapted by the Karnataka Adaptations of Laws Order, 1973 w.e.f. 01.11.1973.

CHAPTER III

DISPOSAL OF TREASURE DECLARED AS OWNERLESS

9. Proceedings subsequent to declaration.—When a declaration that a treasure is ownerless has been made under section 8, such treasure shall be disposed of in accordance with the provisions of this Chapter.

10. When no other person claims as owner of place, treasure to be given to finder.—When a declaration has been made under section 8, in respect of any treasure and no person other than the finder of such treasure has appeared in an enquiry under section 6, and claimed the treasure or a part thereof as owner of the place in which it has been found or otherwise, the Deputy Commissioner shall, subject to the provisions of section 14 deliver such treasure to the finder thereof.

11. When only one such person claims, and his claim is not disputed, treasure to be divided.—(1) When a declaration has been made under section 8 in respect of any treasure, and only one person other than the finder of such treasure has appeared in an enquiry under section 6, and claimed the treasure or a part thereof and the claim of such person is not disputed by the finder, the Deputy Commissioner shall

subject to the provisions of section 15 proceed to divide the treasure between the finder and the person so claiming in the following manner, namely:—

(a) if the finder and the person so claiming have entered into any agreement then in force as to the disposal of the treasure, the treasure shall be disposed of in accordance with such agreement;

(b) 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-half of the treasure not exceeding a lakh of rupees in amount or value shall be allotted to such finder and the remainder to such person:

Provided that the Deputy Commissioner may, in any case, if he thinks fit, instead of dividing any treasure as specified in clause (a) or (b),-

(i) allot to either party the whole or more than his share of such treasure on such party paying to the Deputy Commissioner for payment to the other party, such sum of money as the 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;

(ii) with the sanction of the State Government, and subject to its instructions, if any, sell such treasure or any portion thereof by public auction and divide the sale proceeds between the parties according to clause (a) or (b), as the case may be:

Provided further that when the Deputy Commissioner has made a declaration under section 8, a division under this sub-section shall not be made until after the expiration of sixty days from the date of such declaration or when an appeal against such declaration is preferred under sub-section (3) of section 8 after such appeal has been dismissed, whichever is later.

(2) When the Deputy Commissioner has made a division under sub-section (1), 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.

12. Stay of proceedings when ownership of place where treasure was found is in dispute.—When a declaration has been made under section 8 in respect of any treasure, and two or more persons have appeared in the enquiry under section 8 and each of them claimed as owner of the place where such treasure was found or otherwise, or the right of any person who has so appeared and claimed is disputed by the finder of such treasure, the Deputy Commissioner shall retain such treasure, and shall make an order staying his proceedings with a view to the matter being enquired into as determined by a Civil Court.

13. Settlement of dispute and division of treasure.—(1) Within thirty days from the date of an order under section 12, a person claiming any right referred to therein, may 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 Deputy Commissioner shall be made defendants.

(2) If any such suit is instituted and the plaintiff's claim is finally established therein the Deputy Commissioner shall, subject to the provisions of section 11, divide the treasure between him and the finder.

(3) If no such suit is instituted as aforesaid or if the claims of the plaintiff in all such suits are finally rejected, the Deputy Commissioner shall deliver the treasure subject to the provisions of section 14 to the finder.

14. Division when value of treasure exceeds one lakh.—If in the cases referred to in section 10 or sub-section (3) of section 13, the amount or value of the treasure found exceeds one lakh of rupees, the Deputy Commissioner shall deliver so much of the treasure as is of the amount or value of one lakh of rupees to the finder and shall declare the excess to be at the disposal of Government.

15. Power to acquire the treasure on behalf of Government.—(1) The Deputy Commissioner may, at any time 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 by payment to the persons entitled thereto or 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 a Government treasury to the credit of such person, 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.

(2) In determining the value of the materials of a treasure or portion for purposes of sub-section (1), any increase in the value of such materials or portion by reason of their being of historical or archaeological importance shall not be taken into consideration.

CHAPTER IV MISCELLANEOUS

16. Decision of Deputy Commissioner final and no suit to lie against him for acts done *bono fide*.—No decision passed or act done by the Deputy Commissioner 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 conferred by this Act.

17. Deputy Commissioner to exercise powers of Civil Court.—The Deputy Commissioner making any enquiry under this Act may exercise any power conferred by the Code of Civil Procedure, 1908 (Central Act V of 1908), on a Civil Court for the trial of suits.

18. Penalty on finder, failing to give notice, etc.—(1) If the finder of any treasure fails to give the notice or does not either make the deposit or give the security required by sub-section (1) of section 3 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 the Government and he shall, on conviction, be punished with imprisonment for a term which may extend to one year or with fine or with both.

(2) If the owner or occupier of the place in which any treasure 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, be punished with imprisonment which may extend to one year, or with fine, or with both.

19. Penalty on owner abetting offences under section 18.—If the owner of the place in which any treasure is found abets, within the meaning of the Indian Penal Code, any offence under sub-section (1) of section 18, the share of such treasure or the money in lieu thereof to which he would otherwise be entitled shall vest in the

Government, and he shall, on conviction, be punished with imprisonment which may extend to six months or with fine or with both.

20. Power to make rules.—(1) The State Government may, by notification make rules to carry out all or any of the purposes of this Act.

(2) Every rule made under this section shall be laid as soon as may be after it is made, before each House of the State Legislature while it is in session for a total period of thirty 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 session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, 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.

21. Repeal and savings.—The Indian Treasure Trove Act, 1878 (Central Act VI of 1878), as in force in the ¹[Belgaum Area]¹, the ¹[Mangalore and Kollegal Area]¹, and Coorg District; the Mysore Treasure Trove Act, 1910 (Mysore Act III of 1910), as in force in the Mysore Area, and the Hyderabad Treasure Trove Act, 1322 F. (Hyderabad Act III of 1322 F.), as in force in the ¹[Gulbarga Area]¹, are hereby repealed: Provided that section 6 of the ¹[Karnataka]¹ General Clauses Act, 1899 (¹[Karnataka]¹ Act III of 1899), shall be applicable in respect of the repeal of the said enactments and sections 8 and 24 of the said Act shall be applicable as if the said enactments had been repealed and re-enacted by this Act

1. Adapted by the Karnataka Adaptations of Laws Order, 1973 w.e.f. 01.11.1973.