



YOU FOUND TREASURE BENEATH YOUR FARM - IS IT YOURS? THE FORGOTTEN LAW OF TREASURE TROVE IN INDIA

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ABSTRACT

The discovery of buried treasure raises complex questions of ownership, particularly where the finder, landowner, original owner, and the State may assert competing claims. This paper examines the legal framework governing treasure trove in India, with particular emphasis on the Indian Treasure-trove Act, 1878. It analyses the statutory definition of treasure, the finder's obligation to report discoveries, the Collector's inquiry, competing claims, and the statutory mechanism for determining ownership and distribution. The paper further examines the distinction between the finder and the "owner of the place," the three-fourths and one-fourth division under Section 12, and the Government's acquisition powers under Section 16. It also considers the interaction between treasure-trove law and heritage legislation, particularly the Antiquities and Art Treasures Act, 1972. Through relevant judicial decisions and State-specific legislation, the paper highlights the continuing relevance and limitations of the nineteenth-century framework. It examines whether it adequately addresses contemporary concerns about ownership, heritage, and State regulation.

Keywords: Treasure Trove, Indian Treasure-trove Act, Ownership, Antiquities, Heritage Regulation

INTRODUCTION

Imagine a farmer ploughing land he has owned for decades. The blade strikes something hard. He digs and uncovers a hoard of gold coins or jewellery. His first instinct is simple: the land is his, so whatever lies beneath it must be his too. That instinct is wrong, or at least badly incomplete. Finding treasure does not grant immediate ownership.¹ The Indian law makes the

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¹ Indian Treasure-trove Act 1878, ss 4–16.

answer far less obvious. A nineteenth century colonial statute still governs the process, and it treats buried treasure as something distinct from ordinary found property.²

The Indian Treasure Trove Act, 1878, answers the question of who owns buried wealth with a logic that has surprisingly little to do with who owns the land. The Act is rarely read, barely litigated, and largely forgotten, yet it remains good law across most of the country. The law distinguishes between the finder, the owner of the place, a person claiming to be the original owner or to derive title from that owner, and the Government.³ If the object is a historically significant antiquities law may add another layer.⁴ Understanding it means abandoning the assumption that discovery plus land ownership equals entitlement and instead following a statutory sequence of notice, inquiry, and division that decides the question independently of instinct.

The real question is therefore not simply whether the treasure lies under your farm, but whether the statutory process ultimately recognises you as the person entitled to it.

WHAT COUNTS AS TREASURE

Not everything valuable found in the ground qualifies. The Act defines treasure narrowly under Section 3: “treasure” means anything of value hidden in the soil or in anything affixed to it.⁵ The statutory requirement is that the property be hidden, not merely found underground. In *Shyam Bahadur Koeri v. State*, the Patna High Court treated concealment in the soil and an unknown owner as central to the concept.⁶

The law distinguishes treasure from lost or mislaid property. Lost property is something the owner parted with involuntarily. Treasure, by contrast, is property hidden in the soil rather than merely lost or abandoned. One feature of the Act is its monetary threshold. Section 4 of the 1878 Act, where applicable, requires notice when treasure exceeds ten rupees in amount or value. That figure remains unchanged in the central statute, though State-specific treasure-trove laws may prescribe different thresholds or reporting rules.⁷ Accordingly, where Section 4

² *ibid*, ss 3–4.

³ *ibid*, ss 7–16.

⁴ Antiquities and Art Treasures Act 1972, ss 2, 14, 19, 30.

⁵ Indian Treasure-trove Act 1878, s 3.

⁶ *Shyam Bahadur Koeri v State* AIR 1967 Pat 312.

⁷ Indian Treasure-trove Act 1878, s 4; cf Kerala Treasure Trove Act 1968, s 3(1).

applies, even treasure of relatively small value may trigger the statutory process, and the finder cannot simply retain it.

THE FINDER'S DUTY

The most dangerous misconception a finder can harbour is that they have the right to quietly pocket their discovery. The law imposes inescapable obligations upon the person who unearths the wealth. Where the 1878 Act applies, section 4 requires that, for a finder discovering treasure exceeding the ten-rupee threshold, the finder has absolutely no right of immediate appropriation. The law mandates that the finder must give written notice to the District Collector as soon as practicable, stating the nature and approximate value of the treasure, where it was found and specifying the date of discovery. You must then either deposit the treasure in the nearest Government Treasury or provide security to produce it when required.⁸

Failure to comply carries serious consequences. Section 20 imposes penalties, and there are recorded instances of finders being prosecuted for concealing discoveries. It may also result in the forfeiture of any share you might otherwise have received.⁹ The law treats non-compliance as a deliberate attempt to defeat the statutory scheme, and it punishes accordingly. This mandatory reporting requirement reflects the Act's underlying purpose. The colonial legislature recognised that finders had every incentive to conceal discoveries and sell them privately. The statutory framework was designed to bring treasure into the open, ensure competing claims were adjudicated, and protect objects of historical or archaeological significance. The state demands total visibility over buried wealth.

THE COLLECTOR'S INQUIRY AND COMPETING CLAIMS

Once the Collector receives notice, the bureaucratic machinery takes over. The Collector publishes a formal notification requiring anyone with a claim to the treasure to appear within a specified period, not earlier than four months and not later than six months, acting as a quasi-judicial authority tasked with determining who found the treasure and, so far as possible, who originally hid it. If the land was in someone else's possession at the time of discovery, that person must also be served with special notice. If a claimant fails to appear, their right is forfeited under Section 6.¹⁰

⁸ Ibid.

⁹ *ibid*, s 20.

¹⁰ *ibid*, s 6.

The Collector then conducts an inquiry under Section 7.¹¹ This is where the ownership question begins to take shape. The Act distinguishes sharply between different classes of claimants. First is the finder, the person who physically discovered the treasure. Also to note, discovery gives the finder a legally significant position but not an immediate and indefeasible title. Second is the "owner of the place" where it was found. This is a narrower category than one might expect. Under Section 3, a person is deemed the owner if they are entitled to treasure under a reservation in an instrument of transfer.¹² The ordinary landowner is not automatically the "owner of the place" for purposes of the Act. This is an obscure but crucial point that complicates the common assumption that the landowner must have the strongest claim.

Third and perhaps most fascinating are the original owners or their heirs. If someone appears claiming that their ancestor buried the treasure, the Act permits them to pursue that claim but only under stringent conditions. Section 8 provides that the Collector may adjourn the proceedings to allow a civil suit but only if there is reason to believe the treasure was hidden within one hundred years of its discovery. The Collector must allow time for the claimant to approach a civil court and establish the claimed right.¹³ This does not mean a descendant automatically inherits whatever an ancestor allegedly buried. The claimant must still prove the connection to who owned the treasure, who hid it, when it was hidden, and how the present claimant derives title. The evidentiary burden on any claimant is also formidable. Proving that a particular ancestor owned specific buried treasure and that it was hidden within the statutory period is notoriously difficult. Section 8 offers heirs a genuine route to ownership, but it is a demanding one. The 100-year condition therefore limits when Section 8's civil suit route is triggered; it does not itself declare older treasure ownerless.

WHO ACTUALLY GETS THE TREASURE?

Section 9 permits an ownerless declaration only where the Collector sees no reason to believe Section 8 applies, no suit is filed in time, or the claimant's suit fails.¹⁴ Once declared ownerless, the legislation divides the wealth.¹⁵ The law draws a sharp conceptual distinction between land ownership and the physical act of discovery.

¹¹ *ibid*, s 7.

¹² *ibid*, s 3.

¹³ *ibid*, s 8.

¹⁴ *ibid*, s 9.

¹⁵ *ibid*, s12.

If the finder also owns the land, they are automatically entitled to the entirety of the find. Section 11 directs the Collector to deliver the entire treasure to the finder.¹⁶ However, disputes arise when the finder and the landowner are different people. To incentivise honest reporting, the legislation engineers a deliberate split. Under section 12, treasure is divided between the finder and the person claiming as owner of the place concerning disposal of the treasure. The law allocates a staggering three-fourths of the treasure to the physical finder and only the remaining one-fourth to the landowner.¹⁷

When disputes arise over ownership of the land itself, the Collector stays proceedings, and the matter goes to the civil court under Section 14 with a tight limitation period of one month.¹⁸ This limitation and its collision with ordinary civil procedure was the subject of the Supreme Court's decision in *Mahendra Kumar v. State of Madhya Pradesh*, where a family dispute over a find worth barely three thousand rupees dragged on for years because the Act's rigid administrative timelines sat uneasily with the procedural rules governing counterclaims.¹⁹ The harder cases involve labourers and contractors. In *R. Kandaswami v. Collector of Madras*, gold bars were physically discovered by labourers on the landowner's property. The High Court did not simply treat the landowner as the finder.²⁰ An older Punjab and Haryana decision, *Court of Wards v. S. Iqbal Singh Chadha*, likewise rejected the idea that a contractor automatically became the finder merely because labourers discovered treasure while doing contracted work.²¹

Yet, Section 16 gives the Collector a discretionary power, after a declaration under Section 9 and before delivery or division, to acquire the treasure on behalf of the Government. Under that provision, the persons entitled to the treasure are paid the value of its materials plus one-fifth of that value, upon which the treasure vests in Government.²² That formula is specific to acquisition under the 1878 Act. If the object is also an antiquity or art treasure and is compulsorily acquired under Sections 19–20 of the Antiquities and Art Treasures Act, 1972, compensation follows a different mechanism: agreement where possible and otherwise

¹⁶ *ibid*, s 11.

¹⁷ *ibid*, s12.

¹⁸ *ibid*, s 14.

¹⁹ *Mahendra Kumar v State of Madhya Pradesh* (1987) 3 SCC 265.

²⁰ *R Kandaswami v Collector of Madras, WP No 925 of 1996 (Madras HC, 15 May 2002)* [15]–[20].

²¹ *Court of Wards of the Estate of Bedi Devinder Singh of Una v S Iqbal Singh Chadha AIR 1960 P&H 82*.

²² Indian Treasure-trove Act 1878, s 16.

arbitration in which age, artistic, historical, archaeological or anthropological importance, rarity and other relevant factors must be considered.²³

WHEN TREASURE BECOMES HERITAGE

The legal problem grows more complex when the discovered object is not merely valuable but historically or archaeologically significant. Ancient gold coins, inscriptions, sculptures or ritual objects may qualify both as treasure under the 1878 Act and as antiquities under modern heritage legislation such as the Antiquities and Art Treasures Act, 1972 or the Ancient Monuments and Archaeological Sites and Remains Act, 1958.²⁴

Here, the law becomes uncertain. The Antiquities Act regulates export, sale, and preservation, and empowers the government to acquire objects of cultural significance. Yet antiquity does not mean "automatically owned by the Government". The statute itself contemplates private ownership and possession, subject to regulatory controls.²⁵ This creates a dual regime. The same object is "treasure" under the 1878 Act and an "antiquity" under the 1972 Act. Nothing in either statute expressly reconciles what happens when the two processes pull in different directions.²⁶

Some states have attempted to address this gap. The Kerala Treasure Trove Act, 1968, which replaced the 1878 Act in that state, requires mandatory reporting of objects of historical, archaeological or artistic interest regardless of their monetary value.²⁷ The Karnataka Treasure Trove Act, 1962, similarly mandates reporting to the Deputy Commissioner.²⁸ But in most of India, the 1878 Act remains silent on heritage considerations.

IS A NINETEENTH CENTURY LAW FIT FOR MODERN INDIA?

The framework is both sophisticated and outdated. The Act has strengths. It creates a clear procedure for resolving competing claims. It incentivises reporting through the three-fourths division rule. It recognises the landowner's interest while rewarding the finder's honesty.²⁹

²³ Antiquities and Art Treasures Act 1972, ss 19–20, 30.

²⁴ Indian Treasure-trove Act 1878, s 3; Antiquities and Art Treasures Act 1972, s 2(1)(a); Ancient Monuments and Archaeological Sites and Remains Act 1958, s 2(b).

²⁵ Antiquities and Art Treasures Act 1972, ss 3, 5, 14, 17, 19.

²⁶ *ibid*, s 30.

²⁷ Kerala Treasure Trove Act 1968, ss 1(2), 3(1)(ii), 22.

²⁸ Karnataka Treasure Trove Act 1962, ss 3.

²⁹ Indian Treasure-trove Act 1878, s 12.

Modern difficulties remain. The ₹10 threshold survives in the central statute, subject to State-specific regimes, while Section 16 has its own acquisition formula. Section 17 gives finality to Collector decisions, generally excludes ordinary civil court challenges and protects good faith acts from suit. It does not oust constitutional judicial review by High Courts; civil court jurisdiction may also survive where the Collector acts outside the Act or breaches fundamental judicial procedure.³⁰

Perhaps the most striking anomaly is the 100-year condition in Section 8. It limits when the Collector must adjourn proceedings to permit a claimant to establish title in a civil suit; it does not deem older treasure ownerless. Whether treasure is declared ownerless depends instead on the separate conditions in Section 9. The rule nevertheless reflects a nineteenth-century evidentiary framework that may sit awkwardly with modern records and succession evidence.

CONCLUSION

So, is the treasure beneath your farm yours? Possibly, but not automatically and not merely because you own the field. Ownership turns on whether anyone else comes forward within the statutory window, on whether a family can prove more than a story about an ancestor and increasingly on whether the object is old enough to attract an entirely separate regime of heritage regulation. What the 1878 Act reveals nearly a century and a half after it was written is that Indian law never quite accepted the idea that owning land means owning everything found beneath it, and the deeper one digs into who actually owns a buried hoard, the more that question looks genuinely open rather than a foregone conclusion.

³⁰ Indian Treasure-trove Act 1878, s 17; *Nutan Digamber Jain Mandir v Jain Tirth Raksh Trust, Akola*, 2024:BHC-NAG:6735 [18]–[21], [30]; Constitution of India 1950, arts 226–227.