

Caveat under the Code of Civil Procedure, 1908

Introduction

* A caveat is a legal notice filed in a court by an individual or entity to preempt any ex-parte order or actions in a proceeding that is anticipated to be initiated against them.

Objectives of Caveat

- * It safeguards the interest of a caveator so that any ex parte decree can be avoided.
- * It seeks to avoid multiplicity of proceedings.
- * By filing of a caveat, a caveator gets a fair chance of being heard.

Essentials of a Caveat Under CPC, 1908

- * An application against the person filing the Caveat is expected to be made, or has been made, in a suit or proceeding instituted, or about to be instituted, in a Court.
- * The caveator shall serve a notice of the caveat by registered post, acknowledgement due, on the person by whom the application has been, or is expected to be, made.

Process After Filing of Caveat

- * According to Section 148A (3) of CPC, where, after a caveat has been lodged, any application is filed in any suit or proceeding, the Court shall serve a notice of the application on the caveator.
- * Where a notice of any caveat has been served on the applicant, he shall forthwith furnish the caveator at the caveator's expense, with a copy of the application made by him and also with copies of any paper or document which has been, or may be, filed by him in support of the application.

When a Caveat May be Lodged

- * A Caveat may be lodged after the judgement is pronounced or an order is passed.
- * In exceptional cases, a caveat may be filed even before the pronouncement of judgment or passing of an order.

Period of Expiration of Caveat

* According to Section 148A, a Caveat shall not remain in force after the expiry of ninety days from the date on which it was lodged.

Form of Caveat

* No form of caveat has been prescribed under the Code.

A caveat may be file in the form of a petition wherein the caveator has to specify the nature of the application which is expected to be made or has been made.

Rights and Duties of the Caveator

* Sub-section (2) of Section 148A provides that when a caveat has been lodged under sub-section (1), the caveator shall serve a notice of the caveat to the person by whom the application has been made or is expected to be made under sub-section (1).

Rights and Duties of the Court

* The duty of the court arises, once the caveat is lodged and notice is served upon the applicant.

Sub-section (3) of Section 148A provides that after a caveat has been lodged and thereafter any application is filed in any suit or proceeding, the court must serve a notice to the caveator.

Rights and Duties of the Applicant

* Sub-section (4) of Section 148A, directs the applicant to provide a copy of the application made by him along with any other document or paper that may have been filed by him in support of his application to the caveator.

Landmark Case Laws

- Kattil Vayalil Parkkum Koiloth v. Mannil Paadikayil Kadeesa Umma, 1991 Kerela HC

The Kerala High Court held that a caveat is not to be filed by a person who is total stranger to the case. Therefore, a Caveator shall be the party to the case.

- Deepak Khosla v. Union of India, 2011 Delhi HC

Delhi High Court that a Caveat under Section 148A of the Civil Code cannot be made in a criminal or a constitutional matter.