

APPENDIX-20

RULES REGARDING CAVEATS

1. Every Caveat to be lodged under Section 148A of the C.P.C. shall be drawn up in the manner prescribed in Form 'A' annexed herewith and filed in "The filing section of the High Court at Gauhati. Every Caveat intended to be lodged in the seats of the High Court at Kohima, Imphal, Shillong and Agartala shall be filed in the same Form with the Deputy Registrar of the seat and in his absence to the officer in charge of the filing section.

2. All Caveats shall be accompanied by Postal Receipt of service of notice of the Caveat by registered Post with A.D. on the person by whom the application has been or expected to be made, in respect of which the Caveat is being lodged under Section 148A, sub-section (1).

Provided that in a case where Caveat is lodged in pending proceeding, instituted through advocate the Caveator shall also annex, to his caveat a receipt showing service of such caveat by the said learned Advocate.

3. Every caveat shall contain the following particulars ;

- a) Name and full postal address of the person lodging caveat.
- b) Name of the applicant in respect of whose application the caveat is intended to be lodged and the full postal address of such applicant ;
- c) The Court by which the decree or order referred to in the caveat was passed together with the number and the year of the suit or proceeding in which the decree or order was passed.
- d) Particulars of the proceeding of the High Court, in case the caveat is being lodged in a pending proceeding with reference to which the caveat is being lodged.
- e) Value of the suit or proceeding.
- f) (i) A statement that the notice of the caveat had been served on the person by whom the application in respect of which the caveat is being lodged has been or is expected to be made.

(ii) Every caveat shall bear requisite court fee stamp.

(iii) Every caveat shall be signed and dated either by the person lodging the caveat or his Advocate.

(iv) When a caveat is being lodged through an Advocate, a Vakalatnama executed by the caveator and accepted by the said Advocate shall be annexed to the Caveat and such a Vakalatnama will remain in force for the purpose of appearance on behalf of the Caveator in the proceeding instituted and in all matters arising therefrom or connected therewith.

4. When a Caveat is not in proper form or is otherwise defective, the Registrar

at Gauhati and Deputy Registrar in either seats may allow the defects to be removed within such time as the Registrar/Dy. Registrar may direct.

5. (i). All caveats in respect of applications expected to be made in any proceeding to be instituted shall be entered in the appropriate register to be maintained and the said register shall contain the following particulars :

a. Serial number

b. Date

c. Name of Caveator with address

d. The name of the applicant with address

e. Member and nature of the proceeding to be instituted

f. Valuation of the proceeding

g. Number and year of the suit or other proceeding in which the order or decree had been passed and with relation to which the application is expected to be made.

h. The court which passed that decree or order.

(ii). All caveators in respect of applications made or expected to be made in any proceeding pending shall forthwith be incorporated in the records of that proceeding and the fact of the lodging of such caveat shall be recorded in the order sheet under the date and signature of the Superintendent of that Department dealing with the said proceeding.

6. A caveat shall form part of the proceeding in connection with which the same is lodged. The caveat in respect of which no application is filed within the time prescribed by sub-sec. 5 of sec. 148A of the Code be deposited in the filing section and be preserved for one year. Immediately on presentation of a caveat it shall form part of the preceding and on the covering page of Part I file A of the High Court there should be a seal with appropriate signature of the officer in charge of the filing section. The seal should be conspicuous so that the attention of the Court might be drawn from the impression that a caveat has been filed in the proceeding. Such seal and signature should be there in the second Judge's copy as well.

7. No Caveat shall be entered in the Register unless the application is accompanied by a self addressed envelope with requisite postal stamp for registration and other costs required to be deposited by the Registrar or the Deputy Registrar for service of notice upon the caveator u/s 148A (3) of the C.P.C.

8. A court fee of Rs. 20/- or court fee prescribed by the legal Court Fee Act shall be affixed on every caveat, every caveat shall be entered in the

register of caveats maintained for the purpose and examined by the stamp reporter of the High Court. If he finds that the caveat complies with the requirements, he shall make an endorsement on the caveat examined and may be registered. If he finds that the caveat does not comply with the requirements, he shall place the matter immediately before the Registrar (J) or Dy. Registrar (J) as the case may be for necessary orders.

9. A caveat returned for non compliance with the provision of the Rules or provisions of section 148A of the Code may be presented afresh if rectified within the time granted by the Registrar, Judicial or the Deputy Registrar, as the case may be.

10. An affidavit shall state the rights and interest of the caveator and the grounds of objection to the application.

11. Immediately upon entry in the Register of caveats, the stamp reporter shall place the register before the Registrar or Dy. Registrar, as the case may be, for necessary orders. After lodgment of a caveat the Caveator or the person by whom the caveat has been lodged, shall also be referred as "the caveator" shall cause due notice of the caveat, serve in accordance with the provisions of Sec. 148(1), if any.

12. After a caveat has been lodged u/s 148A(1), if any application, suit/ appeal is filed in respect of which the caveat has been filed, the court shall serve a notice of the application/suit/appeal to the Caveator provided the Caveator has deposited the requisite cost and expenses for such service of notice upon him.

13. The address for service on the caveator must be within a radius of five miles from the court house. The Caveator shall expressly state the person on whom the caveat should be served, if the caveator is found absent. If the caveator is found absent, a person or his agent appointed for the purpose is also not found at the residence indicated in the application, a notice shall be served in any conspicuous place of the residence indicated by the applicant. However, if the caveator authorises his lawyer to accept notice, service on his lawyer will be sufficient service of notice for the purpose of Section 148.

FORM - I

IN THE GAUHATI HIGH COURT

(THE HIGH COURT OF ASSAM, NAGALAND, MEGHALAYA, MANIPUR MIZORAM,
TRIPURA AND ARUNACHAL PRADESH)

(Civil/Criminal appeal/Revisional/Original Jurisdiction)

In the matter of :

An application (set out the particulars)
An appeal from (set out the particulars)

- And -

In the matter of :

Name of the Caveator.

Plaintiff/Defendant/Appellant/Respondent/Petitioner/Opposite Party.

In the proceeding in the Court below or authority below.

To

The Registrar, Judicial/Deputy Registrar, Gauhati High Court, Gauhati,
Imphal/Shillong/Agartala/Kohima.

Sir,

Under Section 148A of the C.P.C. I am lodging a caveat in respect of an application/appeal/revision which is expected to be made/has been made in a proceeding instituted/about to be instituted in this High Court, let no order be made on such application except on notice to me. I am furnishing the necessary particulars hereunder.

Yours faithfully,

PARTICULARS

- a. Name and full postal address of the person lodging caveat.
- b. Name of the application in respect of whose application, the caveat is intended to be lodged and the full postal address of such applicant.
- c. The Court by which the decree or order referred to in the caveat was passed together with the number and year of the suit or preceding in which the decree or order was passed.
- d. Particulars of the preceding of the High Court in case the caveat is being lodged in a pending preceding with reference to which the caveat is being lodged.
- e. Value of the suit or preceding.
- f. A statement as to how the notice of the caveat has been served on the person by whom the application in respect of which the caveat is being lodged has been order is expected to be made.
- g. Name and address of the advocates appearing on behalf of the caveator on whom due service shall be deemed to be proper service on the caveator, or such address of the caveator or his agent for service on the caveator within a radius of five miles from the court house.