ANTICIPATION HAS LIMITS: SECTION 148A CPC AND THE BAR ON OMNIBUS CAVEATS: A DOCTRINAL STUDY IN LIGHT OF SANTOSH DEVI V. UNION TERRITORY OF JAMMU AND KASHMIR

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ABSTRACT

Section 148A of the Code of Civil Procedure, 1908 gives a person who claims a right to be heard a narrow but useful safeguard: it lets that person ensure that an application likely to be made, or already made, in a suit or proceeding is not decided in his absence. The provision is about an application and the right to be heard on it is not a device for blocking a suit from being filed or continued.

A caveat under Section 148A can operate before a suit is instituted, after it has been instituted, or at any point during a long-pending proceeding, so long as there is a genuine apprehension of an application to which the caveator claims a right to respond. It stands procedurally apart from the suit itself, yet it stays tethered to that suit or proceeding, because the application it anticipates must arise within, or be traceable to, that litigation.

This distinction has taken on fresh importance following the decision of the High Court of Jammu & Kashmir and Ladakh in Santosh Devi v. Union Territory of Jammu and Kashmir (9 May 2025), and the Circular that followed it Circular No. 148/RJ/HCWJ/2025 dated 19 May 2025. The Court held that a caveat lodged against an unnamed "Public at Large" could not be entertained, since neither Section 148A CPC nor the High Court Rules, 1999 contemplate a caveat against an unnamed suitor or petitioner. This paper works through the statutory scheme, the nature and timing of a caveat, and why an omnibus caveat framed against the public at large sits outside that scheme.

Keywords: Caveat · Section 148A CPC · Public at Large · High Court of Jammu & Kashmir and Ladakh · Santosh Devi · Civil Procedure

1. Introduction

A caveat is, at bottom, a procedural safeguard: it stops a court from passing an order affecting someone's rights without first giving that person a chance to be heard. Section 148A CPC balances two interests that pull in different directions the applicant's right to approach the court and seek relief, and the caveator's right to notice and a hearing where an application might affect him.

What a caveat does not do is just as important as what it does. It does not stop a person from filing a suit. It does not touch the merits of that suit. And it does not create a standing right to be told about every proceeding that someone might conceivably bring against the caveator one day. Its function is narrower and more specific: where a particular application is expected, or has already been made, the caveator gets the chance to be heard before an order is passed on it.

Everything in Section 148A turns on the word "application." Whether a suit is merely contemplated, was filed last week, or has been pending for a decade, is not the decisive fact. What activates the provision is the apprehension, or the actual existence, of an application to which the caveator claims a right to be heard.

2. The Statutory Scheme of Section 148A CPC

Section 148A(1) provides that where an application is expected to be made, or has been made, in a suit or proceeding that is instituted or about to be instituted, a person claiming a right to appear at the hearing of that application may lodge a caveat.

The remaining sub-sections build on this same application-centred design. Section 148A(2) obliges the caveator to serve notice of the caveat on the person who has made, or is expected to make, the application. Section 148A(3) places a matching duty on the court to notify the caveator once the application is filed. Section 148A(4) requires the applicant to supply the caveator, at the caveator's own expense, with copies of the application and its supporting papers. And unless the application is actually made within ninety days of the caveat being lodged, the caveat simply lapses.

Read together, these provisions assume a fairly specific set of facts: an application, an applicant (present or prospective), a caveator asserting a right to appear, and a concrete procedural subject on which notice and a hearing can actually operate.

3. A Caveat Runs Against an Application, Not Against the Suit

The most important distinction to keep in mind is that a caveat is directed at an application, not at the suit itself.

A person can institute a suit whether or not a caveat exists against him. Filing a caveat does not stop the court from entertaining or deciding that suit, and it leaves the merits of the dispute untouched. The caveat only becomes relevant once an application is made, or reasonably expected, and the caveator asserts a right to be heard before relief is granted on it.

Consider a suit that has been pending for years without anyone needing to file a caveat. If, at some later stage, one side starts to suspect that the other is about to seek an interim injunction, attachment before judgment, appointment of a receiver, or some other substantive interlocutory relief, that is the moment a caveat becomes useful lodged in relation to that specific, anticipated application. Equally, a caveat filed before the suit is even instituted can be perfectly effective, provided the statutory conditions are met.

So the question worth asking is never whether the suit has been filed yet, or how long it has been pending. It is whether an application is expected or has been made, and whether the caveator claims a right to appear when it is heard.

4. A Caveat May Be Lodged During a Pending Suit

Section 148A expressly reaches proceedings that have already been instituted. The phrase "instituted, or about to be instituted" shows that Parliament had both situations in mind pending suits as well as suits yet to be filed.

The Law Commission of India, when it examined this provision, recommended that the caveat mechanism apply equally to pending suits and to suits about to be instituted. Courts have followed this reading, recognising that Section 148A can operate in relation to interlocutory applications that arise well after a suit is already underway.

In Vellore Institute of Technology v. G.V. Sampath, the Madras High Court held that once an interlocutory application is filed in a pending suit or proceeding, the statutory duty to notify the caveator kicks in. That confirms the provision's reach is not confined to the pre-suit stage.

A caveat, then, can be lodged at different points in litigation. But that flexibility in timing does not loosen its substantive requirements. At every stage, it remains a caveat directed at an application, and it must operate within the statutory framework Section 148A sets out.

5. Independent of the Suit, Yet Connected to It

A caveat is best described as procedurally independent of the suit, while still being legally connected to it.

It is independent in the sense that lodging a caveat does not make the caveator a party to the suit, does not amend the pleadings, and decides no substantive right. It remains, first and last, a procedural notice mechanism.

At the same time, it cannot float free of the suit entirely. Section 148A(1) requires the anticipated or existing application to be one made in a suit or proceeding that is instituted or about to be instituted. The caveat draws its procedural relevance from that connection from an application arising within a specific litigation context.

This is precisely why a caveat cannot be turned into a blanket declaration that no member of the public may obtain an order without first notifying the caveator. That kind of approach cuts the caveat loose from the application that Section 148A makes its statutory subject matter.

6. The Anticipatory Character of a Caveat Does Not Make It Unlimited

Section 148A allows a caveat where an application is merely “expected to be made.” The remedy is, by design, anticipatory a person need not wait for an adverse application to actually land before acting.

But that anticipatory quality has its limits. It does not let a person lodge a caveat against every possible litigant, or against every conceivable proceeding that might one day be brought. For the statutory duties of notice and document supply to mean anything, the expected application has to be identifiable with reasonable specificity.

In Nirmal Chandra Dutta v. Girindra Narayan Roy, the Calcutta High Court held that a caveat should identify the nature of the expected application and the caveator's claimed right to appear, and should also point to the person expected to bring that application. The underlying principle is straightforward: Section 148A responds to a concrete procedural contingency, not a vague apprehension of litigation in general.

The Karnataka High Court reached the same conclusion in In Re: Apsara Theatre, Bijapur, stressing that the mechanism presupposes a known person and a known subject matter, and cannot be stretched to cover an unknown applicant, still less the public at large.

7. Why a Caveat Against "Public at Large" Is Impermissible

An omnibus caveat framed against "Public at Large" runs into trouble at almost every step of Section 148A.

First, Section 148A(2) requires the caveator to serve notice of the caveat on the person who has made, or is expected to make, the application. If the prospective applicant is described only as "Public at Large," there is simply no identifiable person to serve.

Second, Section 148A(3) requires the court to notify the caveator once the application is filed an obligation that is tied to a specific application and applicant. An indeterminate class of possible applicants cannot stand in for the person the provision has in mind.

Third, Section 148A(4) requires the applicant to supply the caveator with copies of the application and its supporting documents. That, again, presumes an identifiable applicant and an identifiable application; neither exists where the caveat names no one.

Fourth, and perhaps most fundamentally, a public-at-large caveat tries to convert a narrow right to be heard on one particular application into a general right to advance notice of any litigation anyone might ever bring. That would stretch Section 148A well past what its language actually supports.

The difficulty here is not a matter of loose drafting that could be tidied up. It is a structural mismatch between what an omnibus caveat is trying to do and what the statutory mechanism was built to handle.

8. Santosh Devi v. Union Territory of Jammu and Kashmir

This exact issue came before the High Court of Jammu & Kashmir and Ladakh in Santosh

Devi v. Union Territory of Jammu and Kashmir, WP(C) No. 1147/2025, decided on 9 May 2025.

In that case, the caveat did not name any specific non-caveator; it was filed against “Public at Large” instead. The High Court held that neither the Code of Civil Procedure, 1908 nor the High Court Rules, 1999 allow a caveator to file a caveat against an unnamed suitor or petitioner, and dismissed the caveat as not entertainable.

The Court went further and directed the Registrar Judicial, Jammu, to ensure that the registration counter would no longer accept a caveat that failed to name a specific non-caveator and instead relied on an omnibus reference to “Public at Large.”

What makes the decision significant is what it does not do: it does not deny that a caveat can be anticipatory. It simply draws the outer boundary of that anticipatory character anticipation is fine, but the caveat still has to stay anchored to what Section 148A actually requires.

9. Circular No. 148/RJ/HCWJ/2025 dated 19 May 2025

Following the judgment, the High Court of Jammu & Kashmir and Ladakh issued Circular No. 148/RJ/HCWJ/2025 on 19 May 2025, recording the directions passed in Santosh Devi and requiring the filing section to comply with them fully.

The Circular matters both administratively and doctrinally. It confirms that, before this High Court, a caveat that names no specific non-caveator and instead makes an omnibus reference to “Public at Large” will not be entertained.

In effect, the Circular operationalises the principle laid down in the judgment: a caveat must identify the person against whom the statutory right is being exercised, and cannot be framed as a general protective shield against future litigants who have not yet been identified.

10. The Supreme Court's View on the Limited Procedural Nature of a Caveat

The Supreme Court, in Santosh v. Jagat Ram & Anr., has likewise emphasised how limited a caveat's procedural character really is. The Court disapproved of treating a caveat application as if it were an independent proceeding capable of generating summons, as though the caveat itself amounted to a substantive proceeding something it held falls outside the scope of Section 148A.

That approach fits naturally with the statutory scheme. A caveat creates no independent cause of action and confers no substantive adjudicatory right. Its only job is to make sure that, when the relevant application does come before the court, the caveator gets the procedural opportunity Section 148A promises.

A caveat is best understood, then, as a protective procedural mechanism not as a proceeding in its own right, and certainly not as a tool for controlling, restraining, or pre-empting all future litigation against the caveator.

11. The Correct Legal Position

Drawing the threads together, the legal position can be stated as follows:

(a) A caveat under Section 148A CPC is directed against an application, not against the suit itself.

(b) It may be lodged before a suit is instituted, after it has been instituted, or at any point during a pending suit including one that has been pending for years provided the statutory requirements are met.

(c) The decisive trigger is the apprehension or existence of an application to which the caveator claims a right to appear, not merely the stage the suit has reached.

(d) A caveat does not prevent a suit from being filed, does not stay the proceedings, and does not touch the merits of the dispute.

(e) It is procedurally independent of the suit but must remain connected to a suit or proceeding of the kind Section 148A(1) contemplates.

(f) Its anticipatory character does not stretch to an unlimited or abstract caveat against every possible future applicant.

(g) The mechanism presupposes that the prospective applicant and the application are identified well enough for the notice and document-supply duties in Section 148A(2)–

(4) to actually function.

(h) An omnibus caveat against "Public at Large" is therefore inconsistent with the statutory scheme, and within the jurisdiction of the High Court of Jammu & Kashmir and Ladakh is expressly not entertainable, following Santosh Devi and Circular No. 148/RJ/HCWJ/2025.

12. Conclusion

Section 148A CPC strikes a careful balance. It protects a person from having an order passed against him on an application he never got to answer, while still preserving the applicant's right to approach the court and seek relief. The provision should be read neither so narrowly that it defeats its own protective purpose, nor so expansively that it manufactures rights Parliament never conferred.

The core distinction is between a suit and an application. A caveat is not an objection to a suit being filed, and it does not operate as a bar to litigation. It is a protective mechanism aimed at an application filed or reasonably expected which is why it can be lodged before a suit begins, after it has begun, or even years into a pending case, whenever the apprehension of a relevant application arises.

But the caveat must stay tied to the statute. The requirement that notice go to the person who has made, or is expected to make, the application paired with the corresponding duties on the court and the applicant necessarily calls for an identifiable procedural target. An omnibus caveat against "Public at Large" simply does not meet that requirement.

Santosh Devi and Circular No. 148/RJ/HCWJ/2025 put the matter beyond real doubt, at least within the High Court of Jammu & Kashmir and Ladakh: a caveat against an unnamed suitor or petitioner, framed against "Public at Large," is not entertainable. The right approach is to preserve what is genuinely useful about Section 148A's anticipatory character, while insisting on the statutory discipline that ties every caveat to an identifiable applicant and an identifiable application. That reading protects both sides of the equation the right to seek judicial relief, and the right to be heard before that relief is granted.

Authorities Referred

1. Code of Civil Procedure, 1908, Section 148A.

2. Santosh Devi v. Union Territory of Jammu and Kashmir, WP(C) No. 1147/2025, CM No. 2711/2025, CAV No. 1009/2025, High Court of Jammu & Kashmir and Ladakh, order dated 09.05.2025.

3. Circular No. 148/RJ/HCWJ/2025, High Court of Jammu & Kashmir and Ladakh, dated 19.05.2025.

4. Santosh v. Jagat Ram & Anr., Supreme Court of India, 2010.

5. Nirmal Chandra Dutta v. Girindra Narayan Roy, AIR 1978 Cal 492.

6. Vellore Institute of Technology v. G.V. Sampath, Madras High Court, 20.02.2015.

7. In Re: Apsara Theatre, Bijapur, Karnataka High Court, 24.07.2000.

8. Akhilesh Kumar Jaiswal & Anr. v. Karunesh Jaiswal & Ors., Allahabad High Court, 17.09.2021.

9. Chandrajit v. Smt. Ganeshiya, Allahabad High Court, 19.05.1987.

10. Law Commission of India, recommendation concerning the application of the caveat provision to pending as well as contemplated suits.