Public Works (1897) Department.

Urgent

Today

G.O., No. 862 I

DATED 23. Sept 1897

29/9/97

[Despatch Abstract.]

Pallapolliem Channel case; Stating (with remarks) that in view of the importance of the case the Advocate General will appear on behalf of Government and defend the appeal ~~against~~ preferred against the judgment of the Coimbatore Dt Court in the —, in the High Court.

100/4

28/9/97

23/9

P.W. 26.

Indexed.

BACK PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

IRRIGATION.
ESTABLISHMENT.

Government (1897) of Madras.

PUBLIC WORKS.

Recd. } 1897. *Enclosures*
Regd. *Spare copies*

G.O., No. 862 I., 23rd September 1897.

SEPTEMBER.

Palapalayam Channel Case

Stating, with remarks, that, in view of the importance of the case, the Advocate-General will appear on behalf of Government and defend the appeal preferred against the judgment of the Coimbatore District Court in the —, in the High Court.

GOVERNMENT OF MADRAS.

PUBLIC WORKS DEPARTMENT.

Irrigation.
Establishment.

READ—the following papers :—

Telegram from the Executive Engineer, Kistna Western division, dated 2nd Sept. 1897.

Telegram from the Chief Engineer for Irrigation, to the Government Pleader, Madras, dated Ootacamund, 3rd September 1897.

Following telegram received from Lewis, Guntúr. Notice received from High Court of Appeal against Coimbatore District Court's decision in Palapalayam anicut case. Appeal suit No. 84 of 1896. Notice received September 2nd, hearing posted September 6th. High Court Second Appeal No. 1092. Please appear and obtain adjournment. Papers being forwarded.

To the Government Pleader, Madras, dated 8th September 1897, No. 297 M.

From W. C. LEWIS, Esq., Executive Engineer, Kistna Western division, to the Joint Secretary to Government, Public Works Department, Irrigation Branch, Ootacamund, dated Camp Jagerlamudi, 2nd September 1897.

I have the honour to inform you that the accompanying notice of appeal in the Palapalayam anicut case, which I was directed to defend on behalf of Government, was served at my house in Guntúr on September 1st.

2. The case being posted for hearing on September 6th, I have sent the following urgent telegram to you :—

> Notice received from High Court of Appeal against Coimbatore District Court's decision on Palapalayam anicut case. Appeal Suit No. 84 of 1896. Notice received September 2nd, hearing posted September 6th. High Court Second Appeal No. 1092. Please instruct counsel to appear and apply adjournment.

3. Presumably the notice being insufficient, the case will not be called on on September 6th; but I have telegraphed urgent that necessary instructions may be issued by telegram to put on an appearance that the case may not be allowed to go by default.

No. 181 I.

Submitted to Government. The appeal now preferred is against the judgment of the Coimbatore District Court, recorded in G.O., No. 328 I., dated 29th March 1897, a copy of which has already been furnished to the Government Pleader for information.

(Signed) W. HUGHES,
Chief Engineer for Irrigation.

11th September 1897.

ORDER—No. 862 I., dated 23rd September 1897.

In view of the importance of the case, the Advocate-General will appear on behalf of Government and defend the appeal in the High Court.

2. All necessary papers not printed in Proceedings of Madras Government, No. 328 I., dated 29th March 1897, will be furnished to him by the Superintending Engineer, IV Circle.

(True Extract.)

Under Secretary to Government,
Irrigation Branch.

To the Chief Engineer for Irrigation.
„ the Superintending Engineer, IV Circle.
„ the Advocate-General, through the Government Pleader.
„ the Examiner, Public Works Accounts.
„ the Revenue Department.
„ W. C. Lewis, Esq., Executive Engineer, Kistna Western division, through the Superintending Engineer, II Circle.

48/c

Exd. T. K. Narayana Aiyangar.

A/

Pullapolleem channel case Urgent

directing Govt Pleader to defend the appeal in the ——

PUBLIC WORKS DEPARTMENT,

IRRIGATION BRANCH.

PROCEEDINGS OF THE MADRAS GOVERNMENT.

H.E.

Recirculated

UNDER date the 5 P

READ the following

Quote 5P Telegram from the Exe Engineer Kistna W. Divn { H.E. dated 2nd September 1897 }

Print— Telegram to Govt Pleader, Madras { " " 3rd September 1897 }

Quote— Letter 5P to do { " " 297 M d/ 8 Septr 97 }

Print— without enclos Letter from the Ex Engineer, Kistna Western Divn { " " 2nd Septr 1897 }

No 1. 81. I D/ 11. 9. 97

Issue

WH

I

20.9.97

Flagged A

9 vr/a ven Circulated

Submitted to Government. The appeal now preferred is against the judgment of the Coimbatore District Court recorded in G.O. No. 328-I, dated 29th March 1897, a copy of which has already been furnished to the Govt Pleader for information.

No 862 I & 23.9.97

This is an important case. If Govt. were to lose it on appeal, much harm might be done. I would suggest that the Acting Advocate-General be employed, — unless the rules are opposed to such a course.

A.G.H. 16.9.97

over

Order In view of the importance of the case ~~The Government~~ the Advocate General ~~Pleader~~ ~~After consulting the Ag. Advocate General~~ will appear on behalf of Govt and defend the appeal in the High Court, & all necessary papers not printed in Ph.G.

No. 328-I, d/ 29th March 1897,
will be
being furnished to him
by the Supt. Engineer, IV Circle.

9/8/97

Para 2

WH
11.9.97
I

Reply to H. E's remark

G.O. No 781 Judicial d/ 2 May 1889 makes it the duty of the Govt. Pleader to conduct appellate suits, unless he is an Assistant to the Advocate General he should consult the latter when necessary — The G.O. has been altered & is resubmitted for approval.

WH.
I
17.9.97

I think it would be better if the Order ~~were~~ ran as follows:— "In view of the importance of "the case, the Advocate-General will appear" × × ×"

A.GH 20.9.97

The G.O. has been altered accordingly.

WH
20.9.97

To.
9/10/97
The Chief Engr. for Irrig.
Supt. Engr. IV Circle. Despd. 2/10
The Advocate General thro' the Government Pleader. Despd. 2/10
Comptr. P.W. Accounts
Reve Department.
W. C. Lewis Esqre, Exe Engr. Kistna W.D. thro' S E II C Despd. 7/10

LCW
9/9/97

To be printed & issued immediately
LCW
22/9/97

E. I. Form No. 1—1,000—2-2-97.

Public Works (1897) Department.

CURRENT No. 9428
& 9427

Order

From The Joint Secy to Govt
P.W.D. I Br.

No. 181 I.

Dated 11-9-97

Received 21-9-97
Regd. 22-9-97

Enclosures

Spare copies

SUBJECT.

Pullapollum Channel case appeal against the judgment of the District Court of Coimbatore in connection with the direct[illegible] the Advocate General to defend the —

BACK PAPERS.

No.	Date.

URTHER PA

No.	Date.

I

C No. 8956/97

Please see H.E's remarks of 20.9.97 on the accompanying file of Pullapallam Channel Case.

2. As H.E. is ~~determined~~ desirous of employing the services of the Advocate General in the above case against rules, it would be well to circulate the papers to the Hble Sir Henry Bliss K.C.I.E. who is in charge of the Judicial Dept. If H. M. agrees to H.E's alterations, ~~the~~ the order may issue as a "Special" case. Please say if I may circulate this file to H. M.

JMR
20/9/97

Not necessary. If the Adv. Genl. objects it will be time to consider

22/9

URTHER PA

No.	Date.

P.W.C. No 8956/97

To
J.

With reference to H.E.'s remarks of 16.9.97 I would point out that under para 2 of rules printed with G.O. No 781. Judicial of 2.5.89 (herewith) the employment of the services of the Advocate General in ~~appeal~~ appeal cases is opposed to rules; but in cases of difficulty, the Govt Pleader may apply to that officer for advice and then conduct the case. If so, the order may be slightly altered.

The following additions to the order will be made after the words "pleader", if approved –

"after obtaining advice
"from the Ag. Advocate
"General"

and the word "will be" substituted for "being" at the end of the G.O. making "all necessary papers &c. &c. . . . ."

as a fresh sentence or para.

Resubmit to H.E.

Attended to

[illegible]
17/9/97

[illegible]
17/9

De 9

H.E. particularly desired that the Ag. Ad: Genl should conduct the case. There appears to be no objection to the Govt Pleader also appearing, seeing that he is the former Asst. It may be noted that the Ag. Ad: Genl not being a Barrister at Law but only a Vakil there is apparently no necessity of his being instructed by the Govt Pleader. The question seems to be only a matter of fees.

ACG
30/9/87

Public Works (1897) Department.

CURRENT No. ~~38 C.D.~~ 9427

Urgent

Order

From Mr. W. C. Lewis
Ex. Engineer
Kistna. W.D.

No. –

Dated 2 Septr./97
Received 8 – Septr 1897
Regd: 22-9-97
Enclosures 2
Spare copies –

SUBJECT.

Palapalyam anicut appeal case — reports that he telegraphed urgent that necessary instructions be issued to put in an appearance in the High court on the 6-9-97 in connection with the —

BACK PAPERS.

No.	Date.
R 2471	29. 3. 97

FURTHER

No.	Date.

CHIEF ENGINEER
FOR IRRIGATION.
8-SEP. 1897
No. 38 C I

Seen 6 8 97/97

DISTRICT & SESSIONS COURT, COIMBATORE.
7 AUG. 97

9. The learned Judge has failed to see that prescriptive right may accrue even to rain water flowing continuously and in a defined channel provided the conditions necessary for establishing such a right exist.

10. The learned Judge is wrong in supposing in para. 7 that any scheme, regarding the storage and distribution of water would be "wrecked" if the plaintiffs succeed in this case.

11. The Lower Court is wrong in saying that there is no evidence that the plaintiffs' supply of water has been diminished on account of the action of the defendant. The overwhelming evidence referred to by the Munsif has been altogether ignored by the District Judge.

12. The District Judge has failed to note the evidence of some of the members of the Public Works Department that the supply through the proposed vent will not be sufficient.

13. The District Judge has erred in holding that the District Munsif has considered the question involved on any wrong basis or from any wrong point of view.

14. The Lower Appellate Court has misconstrued the evidence of Mr. Hannan, the Superintending Engineer.

15. The learned District Judge should not have used his own ideas about the quantities required for cultivation but referred to and relied upon the evidence on the record.

16. The District Judge has not considered all the reasons given by the Munsif in support of his findings on the several issues.

17. The Lower Appellate Court has failed to give findings on all the several issues raised in the case.

8th March 97,
MADRAS.

K. NARAINA RAU,
Appellants' Vakil.

Valuation.

				Rs.	A.	P.
Valuation of injunction	...	...	...	100	0	0
Stamp Rs.	...	...	...	7	8	0

Exd. by D. Narasinga Rao.

Rw. S. 2
5427/97

PRINTED BY G. C. AND CO., SCOTTISH PRESS, MADRAS.

EXECUTIVE ENGINEER'S OFFICE.
1- SEP 97
GUNTUR.
KISTNA WESTERN DIVISION.

MEMORANDUM OF SECOND APPEAL.

In the District Munsif's Court of Karur,
Original Suit No. 925 of 1894.

In the District Court of Coimbatore,
Appeal Suit No. 84 of 96.

In the High Court of Judicature at Madras,
Second Appeal No. 1092 of 1897.

	In the Court of 1st Instance.	*In the Lower Appellate Court.*	*In the High Court.*
1. Putti Ranganachar. 2. Putti Krishtnier. 3. Moonoosami Naidu. 4. Singa Aiyangar. 5. Koos Venkata Royar 6. Ragunatha Narasinga Rao. 7. Muthusami Mudaliar.	*Plffs.* 1 and 2 and 4 to 7 and 9.	*Resps.* 1 to 6 and 8.	*Appts.*
versus.			
W. C. Lewis Esquire, Late Executive Engineer, Coimbatore District.	1st *Deft.*.	*Appt.*	*Respt.*

The appellants abovenamed beg to present this Second Appeal against the decree of the District Court of Coimbatore, dated 27th October 1896 for the following among other grounds:—

1. The learned District Judge is wrong in holding that the present suit without notice under Section 424 is not maintainable.

2. The objection was taken too late and there was no issue directed to this point.

3. It being admitted that the plaintiffs and their ancestors used the water for over 100 years as of right, their prescriptive title to the water is undoubted.

4. The fact of the Public Works Department exercising certain amount of control in the distribution of water and looking to the upkeep of the Anicut does not in any way derogate from the plaintiffs' customary right.

5. The custom or common law referred to by the learned District Judge has no bearing on the question at issue.

6. The observation of the Lower Court based upon the water works at Bezwada is not opposite and the question has to be settled as it is settled in plaintiffs' favour by the Munsif with reference to the evidence adduced in proof of the right.

7. The District Munsif's finding on this point has not been in any degree controverted by the Appellate Court.

8. The "broad view" taken by the District Judge is not supported by evidence in this case

S. A. 1092—

(Copy)

EXECUTIVE ENGINEER'S OFFICE.
1- SEP 97
GUNTUR.
KISTNA WESTERN DIVISION.

IN THE HIGH COURT OF JUDICATURE AT MADRAS,

Second Appeal No. 1092 of 1897.

Putti Ranganachar and Others Appellant.
By Mr. K. Naraina Rao

W. C. Lewis Esquire Respondent.

To the—Respondent. W. C. Lewis Esquire, Executive Engineer of Kistna, Western Division, Kistna District

TAKE NOTICE that the abovenamed Appellant having preferred to this Court an Appeal (a copy of the memorandum whereof is hereto annexed) from the decree of the District Court of Coimbatore in Appeal Suit No. 84 of 1896, wherein you were Appellant; the Appeal will be heard on the 6th day of September next; and that, in default of your appearance in person or by Pleader on the day of hearing, the Appeal will be heard and decided *ex-parte* in your absence.

If you wish to rely at the hearing of the appeal, on any documents or other portion of the record, you must file a statement of the same within 15 days from the date of the service of this notice upon you.

சென்னப்பட்டணம் ஹைகோர்ட்டு 189 -ம் வருஷத்திய நம்பர் அப்பீல்

அப்பீல் வாதி.

அப்பீல் பிரதிவாதி.

அப்பீல் பிரதிவாதியாகிய

உமக்கு அறிவிக்கிறதென்னவென்றால்:—

நீர் யாயிருந்த 189 -ம் வருஷத்திய நம்பர்

வியாச்சியத்தில் கோர்ட்டார்

செய்த தீர்ப்பின்பேரில் மேற்படி அப்பீல் வாதி இந்தக் கோர்ட்டில் அப்பீல் செய்திருப்பதால், அந்த அப்பீல் வருகிற மீ உ விசாரணைக்கு வரும். அப்படி விசாரணை செய்யப்படுகிற தினத்தில் நீர் நேராயாவது பிளீடர்மூலமாயாவது ஹாஜராகாவிட்டால் நீர் இல்லாமலே ஒரு தலையாய் அப்பீல் விசாரணை நடத்தி தீர்மானம் செய்யப்படும்.

ஷை அப்பீல் மிமொரண்டத்துக்கு நகல் ஒன்று இத்துடன் சேர்க்கப்பட்டிருக்கிறது.

ஏதாவது தஸ்தாவேசுகளையாவது ரிகார்ட்டின் வேறு பாகத்தையாவது அப்பீல் விசாரணை காலத்தில் உமக்கு ஆதாரமாக்கிக்கொள்ள எண்ணமிருந்தால் அவைகளின் ஜாபிதாவை இந்த நோடீசு உமக்குச்சேர்ந்த 15-தினத்திற்குள்ளாக தாக்கல் செய்யவேண்டியது.

By order of the Court. கோர்ட்டார் உத்தாவின்படிக்கு.

MADRAS, 5 August 1897.
சென்னப்பட்டணம், 189 வருஷம் மீ உ.

J Gillespie
Ag. *Deputy Registrar,* டிப்டி ரிஜிஸ்தரார்,
Appellate Side. அப்பலேட் சயிட்.

ஹைகோர்ட்டில் ரிஜிஸ்ட்ரார் அவர்களிட ஆபீஸ் வேலைகள் நடக்கவேண்டியதற்காக காலை 11 - மணி முதல் மாலை 4 - மணிவரையில் திறந்துவைக்கப்படும்.

Hours of attendance at the Office of the Registrar in the High Court Buildings from 11 A. M. till 4 P. M.

Received by me in camp at Jagarlamudi Sept. 2 1897.

இந்த நோட்டீசு நகலேயும் அப்பீல் மிமோ
ராண்டத்தின் நகலேயும் நான் பெத்துக்கொண்
டேன்.

இதில் பிராசெஸ் சேர்வர் ரிட்டர்ன் எழு
தவேண்டியது.

DISTRICT & SESSIONS COURT, COIMBATORE. 7 AUG 97

FOR IRRIGATION. 8 SEP 1897

OWC-1 / Sec 27/97

UP

2.

Joint Secretary to Government of Madras
for Irrigation
Ootacamund.

D.S.I [illegible]

from

W. C. Lewis Esq
Executive Engineer
Kistna W. Division

Camp Jagerlamudi
Sep. 2. 1897.

Sir

I have the honour to ~~enclose~~ inform you that the accompanying notice of appeal in the Palapalayam Anicut case which I was directed to defend on behalf of Govt - was served at my house in Guntur on Sept. 1st.

Enclosures two
Notice of Appeal
Mem. of 2nd Appeal

2. The case being posted for hearing on Sept. 6th I have sent the following Urgent telegram to you.

Notice received from High Court of appeal against Coimbatore Dist. Courts decision in Palapalayam anicut case Appeal suit Number eightyfour of Ninety six Notice received Sept second. hearing posted Sept sixth. High Court second appeal Number one thousand and ninety two please

Instruct Counsel to appear and apply adjournment".

3. Presumably the notice being insufficient the case will not be called on on Sept. 6th; but I have telegraphed urgent that necessary instructions may be issued by telegram to put in an appearance that the case may not be allowed to go by default.

I have the honour to remain

Sir

Your most obedient Servant

WLewis

Ex. Eng

K. W. Ry

CHIEF ENGINEER
FOR IRRIGATION.
8 - SEP. 1897
No. 38 C. I.

To
Joint. Sec. to Government
P.W. Irrigation
Ootacamund

From
W. C. Lewis Esq
Ex. Eng
Kistna W. D.

Subject
High Court appeal in
Pallapalayam Anicut case.

No. 20297 M

Copy for G.O.s
Irrigation
ICO
8/8/97

To
The Govt Pleader
High Court Buildings
Madras.

Sir

With reference to ~~my~~ E.s Telegram dated the 3 instant I am directed to forward herewith for ~~your~~ information ~~copy~~ the accompanying copy of G.O. No. 328-I, dd 29th March 1897 containing the Coimbatore District Court's judgment in the Pullapolliam Channel case an appeal against which has now been preferred in the High Court.

8/8/97

ICO
July 18/97

Telegram

1P

To
E. B. Powell Esqr
Govt Pleader..
~~High~~ High Court Building
Madras

From.
E. I. Ooty

State - ordinary

Following telegram received from Lewis, Guntur - Notice received from High Court of appeal against Coimbatore District Court's decision in Palapalayam anicut case - Appeal suit No 84 of 1896 - Notice received Septr 2d - hearing posted Septr 6th - High Court 2nd appeal No 1092 - Please appear and obtain adjournment - Papers being forwarded -

(Sd) W. Hughes
E. I.
3. 9. 97

Despd
3/9/97

Let me see the papers connected with this [illegible] 6/9/97

6/9/97

Public Works (1897) Department.

CURRENT No. 8956

Telegram

From

Mr. W. C. Lewis

Guntur.

No. -

Order

Dated 2-9-97

Received 6-9-97

Enclosures .

Spare copies -

SUBJECT.

Requesting to instruct Counsel to appear in the ~~Civil~~ appeal Suit ~~[illegible]~~ against the Coimbatore District Court's decision in Palapalayam anicut Case.

P. W. 29.
1,000—22-4-97.

BACK PAPERS.

No.	Date.
R2478	29-3-97

FURTHER PAPERS.

No.	Date.

8.

Code Class. } PCS

INDIAN TELEGRAPHS.

Monthly Number. }

To (Office) Ootacamund

From (Office) Guntur

Words.	Day.	Hour.	Minute.	Official Instructions.
59	2	19	25	ukgt

Recd at 8.30 AM
opened & registered
87.B 4/9/97

To (Person) Joint Secy to Govt for Irrigation

From (Person) W. C. Lewis

Notice received from high Court of appeal against Coimbatore district Courts decision in palapalayam anicut case appeal suit number eighty-four of ninety six notice was received september second. hearing posted september sixth high court second appeal number one thousand and ninety two please instruct counsel appear and to apply adjournment.

To Office to register and return with papers

Recd. from LN.
At Hrs. Mts. by

Sent to LN.
At Hrs. Mts. by

Telegraph Master.

OOTACAMUND 2-9-97

64 Word Form.

F. C. 2.

C. G. P.—No. 534 T—24-7-95

BACK PAPERS.

No.	Date.
R 247 D	29-3-97

FURTHER PAPERS.

No.	Date.

Govt. Pleader
please see P.S. No 781 / 2.5.89
have 2
Eng

What is his name
and address. I want
to telegraph to him
WH

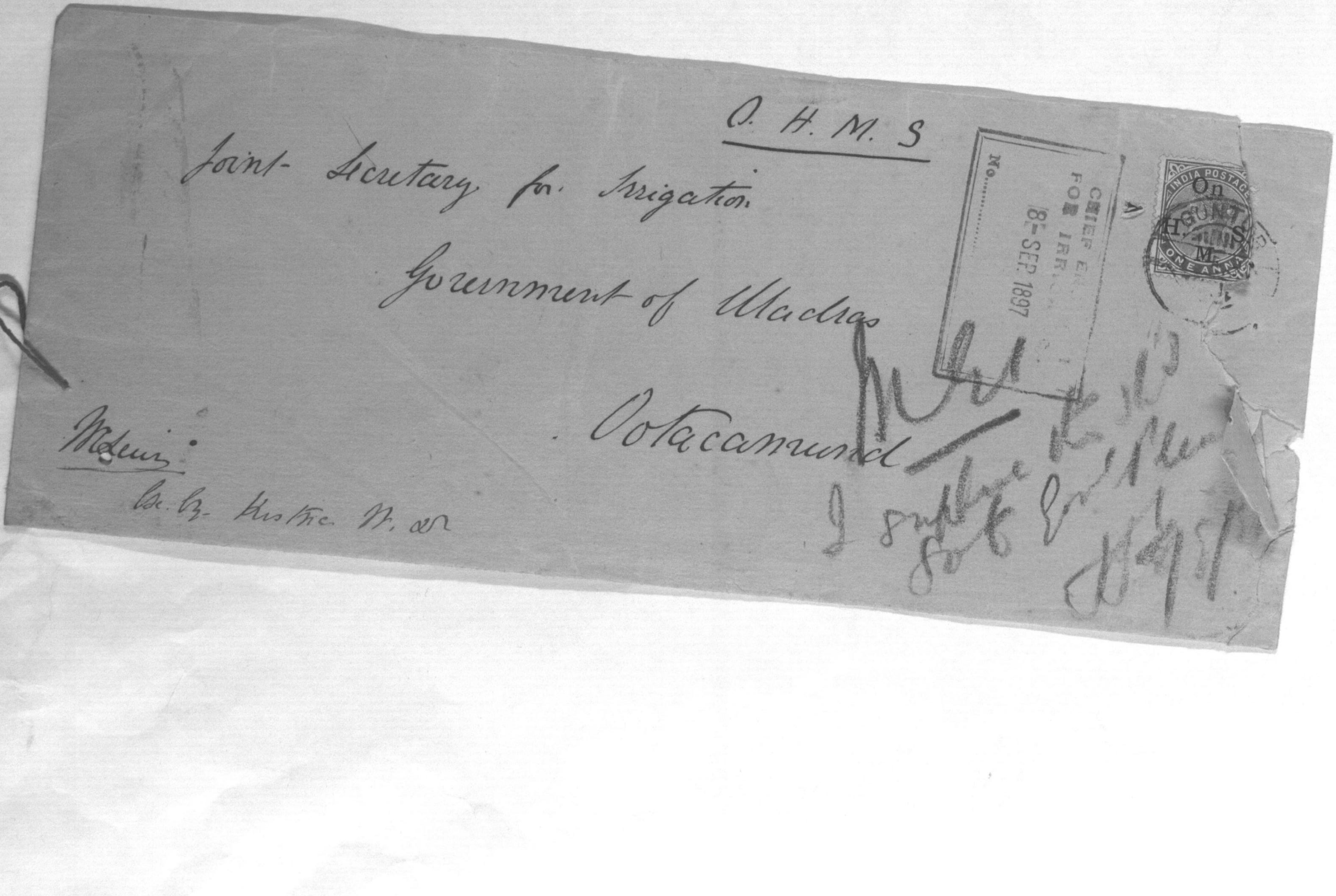
Mr. E. B. Powell.
Govt. Pleader.
High Court Buildings
Madras

Take copy & send off at once
WH

attended to
[illegible] 3/9

[illegible] 3/9

OOTACAMUND
DEL. X
6 SE 97



O. H. M. S

Joint Secretary for Irrigation

Government of Madras

Ootacamund

CHIEF EN...
FOR IRR...
18th SEP. 1897
No. ....

On
H. S.
M.
INDIA POSTAGE
ONE ANNA

Memo:
Ex. Eg. Kistna W. Dn

[illegible]
9 Sept [illegible]
806 [illegible]