Bayley, J.—I quite concur with Mr. Justice Hobhouse who has delivered the judgment of the Court in this case.

As to the admission of new arguments, after a decision has been given in the case upon points, the very same as were previously put before the Court, I have already expressed my opinion in review No. 42, decided on the 6th July last by Mr. Justice Markby and myself. (1)

In regard to the manner in which this case has been placed before us, I would state that the pleaders argued the case, as on the merits upon the one point only, *viz.*, whether Garib Hossein Chowdhry was really the beneficial owner of the property in suit; and after carefully hearing the evidence, as it was read by counsel, and argued upon by the pleaders on both sides, we came to the conclusion of fact that Garib Hossein was such beneficial owner.

The point of multifariousness had been previously raised and disposed of, and cannot, I think, be re-argued on a new footing by a new counsel.

I agree in rejecting this application with costs.

(1) *Ante, p.* 42.

The 20th December 1869.

Before Mr. Justice L. S. Jackson, and Mr. Justice Markby.

BENI MADHAB GHOSE *(Petitioner)*,

versus

GANGA GABIND MANDAL *(Opposite Party)*.

Application for Review No. 225 *of* 1869, *against the judgment of Mr. Justice L. S. Jackson, and Mr. Justice Markby in Special Appeal No.* 2687 *of* 1368.

Mr. Paul, for Petitioner.

Mr. R. T. Allan for Opposite Party.

Jackson, J.—THE question that we have to consider in the present application is one which we have often considered before, and upon which I for my part have, and as I understand most of the other Judges also have, expressed a decided opinion. It is, whether in a case, an appeal having been carefully considered by this Court on a point of law argued at length, and the Court having come to a deliberate conclusion on that point, the party dissatisfied with the judgment of this Court, has an absolute right to be heard by fresh counsel in an application for review, merely for the purpose of convincing the Court that its first opinion upon that point of law was erroneous.

Mr. Paul contends that a party has such right, and declares that such right is perfectly clear. I can only say that it appears to me to be quite clear the other way. Rights of parties and the duty of the Court, in dealing with petitions of reviews must be gathered, if anywhere, from Sections 376 and 378 of the Procedure Code *(reads)*.

It seems to me clear that the only case in which the Court is bound to grant a review is where "it shall be of opinion that the review desired is necessary to correct an evident error or omission, or is otherwise requisite for the ends of justice."

Mr. Paul contends that his object in this case is to correct an evident error in law, in the judgment of the Court. It is necessary therefore to consider what can be called an evident error. Can it be said that an error which is capable of being established by a lengthened argument upon a point which admits of two opinions is an evident error? I think not.

It appears to me that the word evident is used in the same sense as it is in a passage to which the Chief Justice (whom I have just had the advantage of being able to consult) has referred me in the second volume of Maddock's Chancery Practice, page 484, title "Re-hearing," I think the word evident means merely that which is manifest, patents or obvious, and it is only where the Court ha. fallen into an error of that description that it i, bound to grant a review.

Mr. Paul refers us to a ruling of PEACOCK, C. Js and MITTER, J., in *Koh Poh* v. *Moung Tay* (1) on a reference from the Recorder of Rangoon. In that case the Recorder, after stating the nature of the case in which the point arose, says:—"It seems to me that the ground set forth by Mr. Agabeg is a ground for an appeal, instead of a ground for review, and I find that the Chief Justice, in the case of *Nusseeroodeen Khan* v. *Inder Narain Chowdhry* (2), held that the fact of the Court below having decided against the weight of evidence is a ground for appeal, and not for review, and His Lordship goes on to say (see page 149) that the attempt has frequently been made for the purpose of having the case re-argued by fresh counsel, when "parties have been dissatisfied with the first decision. . . . . .
I would therefore request the opinion of the High Court, whether an error in a point of law is a ground for review of judgment."

On that the Chief Justice was of opinion "that an error on a point of law is a ground for a review of judgment."

In consequence of this case being cited in argument, I have thought it right to consult the Chief Justice, in order to learn whether he intended to go so far, as these words might be held to imply. The result of that communication is that I believe myself authorized to state that what the Chief Justice really intended to say on that occasion was not that an applicant for review was entitled to a fresh argument on a point of law; but that if the Judge should be satisfied that he had committed an error in law, so that his own conscience should prompt, and as it were compel, him to rectify such error, it would be quite in accordance with the Procedure Code that he should do so, and in this I fully agree.

(1) 10 W. R., 143.
(2) 1 Ind. Jur., N. S., 147.

Mr. Paul says if this be the correct view, Sections 376 to 378 may as well be struck out of the Code. I think not, and I believe those sections capable of doing very useful service. But I may observe that, if parties had a right to re argue the same points over and over again (for they are not limited to a single application), it would be simply impossible to carry on the business of the Courts, and I am sure the Legislature never contemplated any such thing.

I must therefore decline to admit the right claimed by Mr. Paul of re-arguing this case for the purpose of convincing us that the conclusion at which we deliberately arrived on a point of law, was not the conclusion at which we ought to have arrived.

There is, however, a manifest error in the decree in this case relating to the quantity of land which might very well have been set right in simple routine, but which I think ought to be corrected, and that correction, as pointed out, may accordingly be made, but without costs.

Markby, J.—I am of the same opinion. I think it quite clear that no person has a right to call upon the Court to hear a fresh argument upon a question which has been already submitted to it, and which it has determined. Were it otherwise, litigation would be absolutely interminable; and though the language of this part of the Code might have been more clear and precise, I am quite sure this was never intended.

B. L. R. Vol. V, p. 357.

(Original Civil.)

The 6th July 1870.

Before Mr. Justice Norman.

S. M. JAGATSUNDERI DASI,

versus

SONATAN BYSAK.

Award—Submission—Completion—Delivery—Act VIII of 1859, ss. 315,318 and 320.

By an order of Court, of January 17th, 1867, a suit was referred to two arbitrators, under Section 312, Act VIII of 1859, who were to make their award in writing, and submit the same to the Court within three months. No order for enlarging that time was made. The first meeting of the arbitrators was held on May 22nd, 1867, and four subsequent meetings were held, at which all the parties attended, and evidence was taken; at the last of which meetings, namely on 27th July, an objection for the first time was taken on behalf of the defendant that the time limited by the order of reference had expired, but the arbitrators proceeded with the reference. The award was made on 12th August 1867, and remained with one of the arbitrators until his death in August 1867. Subsequently it was produced by the other arbitrator, on the application of the parties to the suit, and delivered to the successful party, by whom it was brought into Court on the 10th May 1870, and judgment was moved for in accordance therewith. *Held*, that the arbitrators had authority to make the award. The award was properly submitted to the Court. Section 320, Act VIII of 1859, does not make it necessary for the arbitrators to submit the award to the Court personally. Submission to the Court, under Section 320, is not necessary to the completion of an award under Sections 315 and 318.

Although an arbitrator may deliver his award to one of the parties, he ought not to hand over with it the proceedings, depositions, and exhibits.

THIS was an application, on behalf of one of the parties to the suit, to have an award of two arbitrators made therein confirmed, and for an order of Court in accordance therewith. The order of reference to arbitration was made on the 17th January 1867, and the time fixed by the Court, within which the arbitrators were to make their award in writing and submit it to the Court, was three months. After some hearings before the arbitrators, the case was, by the desire of the parties, adjourned beyond the three months granted by the Court for the making and submission of the award. No application was made to the Court for the extension of the time. The arbitrators made and signed their award on the 12th August 1867, but they did not communicate it to the parties. In August 1868, one of the arbitrators, in whose possession the award had remained, died, and the award was, on the application of the party in whose favor it was made, delivered to him by the other arbitrator, and submitted by him to the Court on the 10th May 1870.

Mr. Branson in support of the application contended that the award was complete. By the English cases an award is to be considered as published when the parties have notice that it is ready for delivery on payment of the reasonable charges—*Musselbrook* v. *Dunkin* (1) and *Macarthur* v. *Campbell* (2). So soon as the award was made by the arbitrators, and was ready for delivery, it was made sufficiently to satisfy the order of the reference. The award has been submitted, however irregularly, to the Court, and the requirements of Act VIII of 1859 have been complied with. An award which is required to be in writing and ready to be delivered at a certain time is complete

(1) 9 Bing., 605.
(2) 5 B. & Ad., 518.