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sion and enjoyment of this estate as it has existed since the death of Raj Singh, and maintain the order of succession which has in fact prevailed since the settlement in 1790.

In the view which their Lordships have taken of the case it becomes unnecessary to consider the point that the suit was barred by the Law of Limitation of suits.

Their Lordships being of opinion, for the reasons above given, that the decree of the High Court ought to be upheld, will humbly advise Her Majesty to affirm it, and to dismiss this appeal with costs.

Appeal dismissed.

Agent for the appellant: Mr. *Wilson.*

Agents for the respondents: Messrs. *Wathins* and *Lattey.*

APPELLATE CIVIL.

Before Mr. Justice Macpherson, Offg. Chief Justice, and Mr. Justice Birch.

ROY MEGHRAJ (DEFENDANT) *v.* BEEJOY GOBIND BURRAL AND OTHERS (PLAINTIFFS).*

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April 8.

Review of Judgment—Act VIII of 1859, *ss.* 376, 378—*Power of Judge to review Judgment of his Predecessor.*

A Judge has no power to allow a review of his predecessor's judgment on the ground that he comes to a different conclusion on the facts of the case. The general words used in ss. 376 and 378 of Act VIII of 1859 are controlled and restricted by the particular words, and it is only the discovery of new evidence, or the correction of a patent and indubitable error or omission, or some other particular ground of the like description, which justifies the granting of a review.

Baboo *Rash Beharee Ghose* for the appellant.

Baboo *Mohinee Mohun Roy* for the respondents.

THE facts sufficiently appear in the judgment of the Court, which was delivered by

MACPHERSON, J.—In this case it appears that upon the

* Special Appeal, No. 1863 of 1874, against a decree of the Second Subordinate Judge of Zillah Moorshedabad, dated the 1st of June 1874, affirming a decree of the Munsif of Jungipore, dated the 6th of January 1873.

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15th of September 1873, Baboo Nuffer Chunder Bhutt, the Officiating Additional Subordinate Judge of Moorshedabad, sitting as a Court of Appeal, reversed the decision of the Munsif of Jungipore. On the 30th of May and 1st of June 1874, Baboo Nuffer Chunder Bhutt having ceased to hold the office of Additional Subordinate Judge of Moorshedabad, Baboo Nobo Kumar Banerjee, the second Subordinate Judge of that district, admitted a review of the judgment of Baboo Nuffer Chunder Bhutt, and, reversing his decision, restored and confirmed the decree of the Munsif of Jungipore. It is objected in special appeal that Baboo Nobo Kumar Banerjee had no power to review the judgment of Baboo Nuffer Chunder Bhutt; that no sufficient reason was shown for his reviewing it; and that his proceedings ought to be set aside. For the respondent it is contended that whether the review was rightly or wrongly admitted, the matter is not one which can be questioned in special appeal.

It appears from the judgment of Baboo Nobo Kumar Banerjee that he admitted the review, not upon the ground of the discovery of any new matter or evidence which was not within the knowledge of the party applying for review at the time of the original hearing, nor in order to correct any patent error or omission, nor for any other particular defect in the judgment of Baboo Nuffer Chunder Bhutt. He granted the review upon the general ground, that having gone into the case in all its details, he came to a conclusion on the facts different from that at which Baboo Nuffer Chunder Bhutt had arrived.

There is no doubt that it is an eminently unsatisfactory and inconvenient state of things, if one Judge succeeding to the office of another, is at liberty to review and rehear all the cases decided by his predecessor, and to dispose of them afresh according to the view which he may happen to take of each. It would be almost equally inconvenient that a Judge should be bound, or should be permitted, perpetually to rehear the cases which he has himself decided, upon every occasion that a party, who is dissatisfied with a decision which has been passed, chooses to ask him to go again through the evidence upon which he has already decided.

But the law, though providing for a review of judgment in certain special cases, does not, under color of a review, authorize rehearing for the purpose merely of seeing whether the Judge, on going again through the case, will arrive at a different conclusion. When a case is reheard, the Court goes through the evidence, and decides afresh upon it. But a review can be given only for certain particular reasons: and it cannot be given merely for the purpose of allowing the parties to reargue the case upon the evidence upon the chance of eventually throwing doubt on the soundness of the decision already passed. As Sir Barnes Peacock says, in the course of his judgment in the Full Bench case of *Nassiruddeen Khan* (1): "I have on more than one occasion observed that an attempt was made to obtain a review of judgment upon the ground that, upon the first hearing, the Court had determined the facts contrary to the weight of evidence. This is matter for appeal, not for a review."

The sections of the Civil Procedure Code which deal with this subject are no doubt very loosely framed. Under s. 376, the ground upon which a review may be granted is stated to be the discovery of new matter or evidence which was not within the knowledge of the party applying for the review, or which could not be adduced by him at the time when such decree was passed, or any other good and sufficient reason. In s. 378, the grounds indicated are the correction of an evident error or omission, or its being otherwise requisite for the ends of justice. These sections show that the intention of the Legislature was that a review should be granted only on the discovery of new evidence or for the correction of some patent error or omission, or for some such cause. For example, if a deed is dated a hundred years ago, and the Judge, accidentally misreading it, thinks it is dated only twenty years ago, and decides the case accordingly; or if the Judge erroneously supposes that the witnesses all stated that the plaintiff lived at *A* and decides the case accordingly, whereas the witnesses all stated that he lived at *Z* and not at *A*,—in such cases, and in any other in which there has been a clear and evident slip or error on the part of

(1) B. L. R., Sup. Vol., 367.

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the Judge, a review may rightly be admitted. In short, the object of a review is, either to admit new evidence, or to enable the Judge to rectify any patent error, whether of fact or of law, into which he finds he has fallen.

Ss. 376 and 378 give no authority to a Judge, on an application for a review, to rehear the whole case upon the evidence, merely because one of the parties is dissatisfied with his original decision. It is true that in s. 376 there is a general provision that a review may be applied for by any one who, from the discovery of new evidence "or from any other good and sufficient reason, may be desirous of obtaining a 'review;' and that s. 378 says, a review may be granted if it is necessary to correct an evident error or omission or is otherwise requisite for the ends of justice." But it is a well known rule, that in interpreting Acts of the Legislature, general words are controlled and restricted by particular words. And we are of opinion that the general words used in these two sections are controlled and restricted by the particular words; and that it is only the discovery of new evidence or the correction of an evident (*i. e.*, patent and indubitable) error or omission, or some other particular ground of the like description which justifies the granting a review. In the present case, none of the grounds specified, existed, nor did any ground of the like description.

But it is contended that by s. 378 the order, whether for granting or rejecting an application for review, is final. This question, however, has practically been disposed of by the recent decision of a Full Bench in the case of *Bhyrub Chunder Surmah Chowdhry* (1). The Court there held that the parties in a special appeal are entitled to show that there has been an error or defect in procedure in the granting of the review, which has affected the decision of the case on the merits, by producing a different decision from that which has in the first instance been come to. As in that case it appeared to the learned Judges that no ground had been shown on which a review could legally be granted, so we are of opinion that in this case no ground is shown upon which a review could legally be granted.

(1) 11 B. L. R., 423.

The Judge who granted the review simply went in detail through the evidence which had previously been gone through in detail by his predecessor, differing from him apparently on every point. This was on the 30th May, when the case was in fact decided on the occasion of granting the review. The case came on formally for rehearing two days later,—*i.e.*, on the 1st of June, when the Subordinate Judge gave judgment as follows:—"The respondents applied for a review of judgment, and their application was granted on the 30th of May. A copy of the reasons given there is put up with this record, and in reliance on the said reasons I confirm the judgment of the Court of first instance."

Nothing can be more unsatisfactory than the manner in which this case has been dealt with. If such proceedings are legal, a suit may go on for ever. In the present instance, supposing it had so happened that Baboo Nobo Kumar Banerjee had been transferred to another district shortly after the 30th of June 1874, and that Baboo Nuffer Chunder Bhutt had returned to his former office, as a matter of course Baboo Nuffer Chunder Bhutt would have been asked to review the judgment of Baboo Nobo Kumar Banerjee; and so it might have been had a stranger succeeded him.

The decisions of a Judge are entitled to be treated with respect at any rate by his successors in office, who are his co-equals in judicial position. And Baboo Nobo Kumar Banerjee forgot this rule, and acted improperly, when in admitting the review he made the general condemnatory remarks which he makes on the judgment of his predecessor.

The appeal is allowed, the order granting the review and the decree on the rehearing are set aside, and the decree of Baboo Nuffer Chunder Bhutt is restored. The appellant is entitled to his costs in this Court and in the lower Courts also (1).

Appeal allowed.

(1) This case was followed in the similar case of *Bani Madhub Bose* v. *Kalichurn Singh*. Special Appeal, No. 2328 of 1874, decided by Garth, C.J., and Birch, J., on 30th August 1875.