



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: AA/03098/2013

THE IMMIGRATION ACTS

Heard on the papers at Field House	Determination promulgated
11 November 2013	11 November 2013

Before
UPPER TRIBUNAL JUDGE O'CONNOR

Between
Mr Nieruban Xavier

Appellant

and

Secretary of State for the Home Department

Respondent

DETERMINATION AND REASONS

1. The Appellant is a citizen of Sri Lanka, born 24 August 1988. Upper Tribunal Judge Eshun granted permission to appeal against the determination of First-tier Tribunal Hussein, who had dismissed the appellant's appeal on Refugee Convention, humanitarian protection and human rights grounds.
2. On 19 September 2013 DUTJ Woodcraft sent a notice indicating that his preliminary view was that the determination of the First-tier Tribunal contained an error of law and that the appeal should be remitted to the First-tier Tribunal to be heard along with the appellant's brother's appeal [AA/02172/2013], on the 19 November 2013. He invited submissions from the parties by 11 October 2013, should they object to such a course. Neither party responded.
3. Having considered the circumstances of this case for myself, I conclude that the First-tier Tribunal Judge erred in the matter claimed in ground five of the grounds of application i.e. by unlawfully excluding relevant evidence from his consideration; such evidence being the appellant's brother's passport, asylum interview records and bank statements. Although the appellant's

brother was permitted to give oral evidence, the exclusion of such potentially corroborative documentary evidence was in breach of the principles of natural justice on the facts of the instant case.

4. I therefore set aside the determination of the First-tier Tribunal and, as indicated would be the case in Judge Woodcraft's notice, remit the appeal back to the First-tier Tribunal [noting that there having been no objection to such course and having first considered the terms of the Senior President of the Tribunals' Practice Statement of 25th September 2012].

Decision

The determination of the First-tier Tribunal involved the making of an error of law and is set aside. The appeal is remitted to the First-tier Tribunal for determination.

Signed:

A handwritten signature in black ink, appearing to read 'M. O'Connor', written over a faint horizontal line.

Upper Tribunal Judge O'Connor
Date 11 November 2013