



**Upper Tribunal
(Immigration and Asylum Chamber)**

Appeal Number: IA/09498/2014

THE IMMIGRATION ACTS

**Heard at Field House
On 2 November 2015**

**Decision & Reasons
Promulgated
On 12 November 2015**

Before

DEPUTY UPPER TRIBUNAL JUDGE J M LEWIS

Between

**RAMESHKUMAR SHANMUGARAJAH
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: None

For the Respondent: Mr E Tufan, Home Office Presenting Officer

DECISION AND REASONS

The History of the Appeal

1. The Appellant, a citizen of Sri Lanka, appealed against the refusal of the Respondent to grant his application for leave to remain in the UK as the extended family member of an EEA national under the Immigration (European Economic Area) Regulations 2006

2. The Appellant's appeal was heard by Judge Devittie sitting at Taylor House on 9 February 2015. The Appellant was represented by Counsel; the Respondent was not represented. The Appellant and the sponsor gave evidence. In a decision of 26 February 2015, promulgated on that day, the judge dismissed the appeal under the Regulations and on Article 8 human rights grounds.
3. The Appellant's application for permission to appeal was initially refused by Judge Chambers on 29 April 2015. On second application it was granted on 10 July 2015 by Judge Mandalia in the following terms:
 - “1. The Appellant, a citizen of Sri Lanka, appealed against the Respondent's decision of 3 June 2015 to refuse the Appellant's application for leave to remain in the UK as an extended family member of an EEA national. First-tier Tribunal Judge (FTTJ) Devittie dismissed the appeal for reasons set out in a decision promulgated on 26 February 2015. Permission to appeal can only be granted if there is a properly arguable point capable of affecting the outcome of the appeal.
 2. Although it seems that much of what is said in the grounds is merely disagreement with the findings of the FTTJ, it is arguable, and I put it no higher than that, that FTTJ Devittie failed to take into account relevant evidence and made adverse findings against the Appellant, in respect of matters that did not appear to be in issue, and without providing the Appellant a proper opportunity to respond.
 3. Since permission to appeal is granted on ground 1, it seems to me that the matters set out in ground 2 should also be considered by the Upper Tribunal.”
4. The Respondent submitted on 12 August 2015 a Rule 24 response, essentially submitting that Judge Devittie gave clear reasons for his decision, taking into account relevant matters.
5. On the date of the error of law hearing, 2 November 2015, the Appellant's solicitors, S Satha & Co, wrote to the Tribunal requesting determination of the appeal on the papers. The Appellant was accordingly not represented at the hearing, save that at the outset Counsel came into the room to check that the solicitors' letter had been received and then left. Mr Tufan made submissions, which I have taken into account, together with the permission application and the Rule 24 response. I reserved my decision.

Determination

6. The judge found that the Appellant had not established that he was living in the sponsor's household. At paragraphs 13 and 14 he gave his reasons. These are full and cogent, and do not disclose any patent error in the chain of reasoning. Much of the lengthy permission application essentially

represents disagreement with the judicial findings. The judge appears to have considered all of the relevant evidence, and it was not procedurally unfair, as asserted in paragraph 6 of the skeleton argument and paragraph 5 of the renewed permission application, not to afford the Appellant +t relate to a Sponsor who was at the material time an EEA national: **Moneke (EEA - OFMs) Nigeria** [2011] UKUT 00341 (IAC) at head note (ii). The evidence of the Sponsor, recorded at paragraph 8 of the decision, is that at the material time the Sponsor was a citizen of Sri Lanka.

8. The decision does not reflect an error of law, and is upheld.

Decision

9. The original decision does not contain an error of law and is upheld.

Signed
November 2015

Dated: 11

Deputy Upper Tribunal Judge J M Lewis