



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

Appeal Numbers: IA/10205/2014

THE IMMIGRATION ACTS

**No hearing
On 30 November 2015**

**Decision & Reasons Promulgated
On 09 December 2015**

Before

MR C M G OCKELTON, VICE PRESIDENT

Between

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

PAWAN KUMAR

Respondent

DETERMINATION AND REASONS

1. The respondent, whom I shall call 'the claimant', appealed to the First-tier Tribunal against the decision of the respondent refusing to issue him with a Residence Card. Judge Fox allowed the appeal. The Secretary of State thereupon sought, and was granted, permission to appeal to this Tribunal. The grounds are that the judge erred in considering he was bound to accept the claimant's version of events in the absence of cross-examination, despite noting that it was difficult to see that the marriage between him and his wife had any substance because they had no common language.
2. Following the grant of permission, the claimant has, through his solicitor, sought to withdraw his case.

3. I allow the withdrawal. In the circumstances it is apparent that there is no resistance to the Secretary of State's appeal and this case is suitable for determination without a hearing. The grounds have substance. The facts tend to show that the marriage was or is a marriage of convenience and the claimant (on whom the burden lies) has failed to show the contrary.
4. The judge erred in thinking that he was bound to accept the claimant's version of events. I set aside his determination and substitute a determination dismissing the claimant's appeal.

C. M. G. OCKELTON
VICE PRESIDENT OF THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER
Date: 30 November 2015