



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

Appeal Number: IA/18311/2014

THE IMMIGRATION ACTS

**Heard at Bennett House, Stoke-on-Trent
On 26th January 2015**

**Determination
Promulgated
On 29th January 2015**

Before

UPPER TRIBUNAL JUDGE MARTIN

Between

**Mr Hiren Odedra
(Anonymity Direction Not Made)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr A Ceesay (IAS (Manchester))

For the Respondent: Mr G Harrison (Senior Home Office Presenting Officer)

DETERMINATION AND REASONS

1. This is an appeal to the Upper Tribunal by the Appellant, with permission, against the determination of First-tier Tribunal Judge North promulgated on 20th August 2014 by which he dismissed the Appellant's appeal against the Secretary of State's decision to refuse him leave to remain on the basis of his private life and relationship with his partner, Mr Winn. Permission was granted by a First-tier Tribunal Judge on the basis that the Judge may have made an error of law in finding that the couple had not

been cohabiting for two years and also in suggesting that they should have registered their relationship.

2. The Appellant, an Indian national said that he met his partner on 22nd August 2012 and they started to live together in December of that year. The Secretary of State refused the application under the Immigration Rules on the basis that the Appellant did not meet the requirements for leave to remain as a partner as they had not lived together in a relationship akin to marriage for two years.
3. The Judge found that they had not. There was conflicting evidence as to when they started to live together but he found that to be in December 2012. The Judge then found there to be no reasons to justify a consideration under the ECHR. He did not accept it would be a breach of Article 8 to expect either the Appellant alone or the Appellant and his partner to move in India.
4. The grounds seeking permission to appeal are at best misconceived and at worst misleading. They suggest that the Judge's finding that the couple had not been in a relationship akin to marriage for two years was irrational and perverse: It was not. Mr Ceesay sought to persuade me that a relationship akin to marriage can subsist without constant cohabitation – which of course it can. However, this couple met for the first time on 22nd August 2012. It is wholly inconceivable, and frankly nonsense to suggest that they started a relationship akin to marriage on that date. However, even if they had it was still less than two years, even from the date of the hearing which was on 18th August 2014. It is far more credible that the relationship took on that substance when they moved in together in December 2012. That ground, which was clearly pertinent to the grant of permission to appeal, is misleading, being quite plainly wrong. Furthermore an assertion that a Judge has acted perversely or irrationally carries a high threshold and should not be made lightly.
5. The grounds then make a further misleading assertion in suggesting that the Judge wrongly required the relationship to be registered. He did not. He said in the determination that he noted that they had not entered into a civil partnership and the claim by the representative that they had been unable to do so,. He asked about this and was given no cogent explanation. It is untrue to assert that the Judge either found this determinative or that he did not raise it at the hearing. There was no error of law nor any unfairness.
6. Lastly, the grounds assert that the Judge erred in failing to consider Article 8 outside the Rules. The only reason put forward for so doing was that in India gay couples are discriminated against. The Judge did not accept that assertion for the reasons he gave.
7. The grounds in this case are of a kind that should not be advanced and do the Appellant no favours. The First-tier Tribunal did not make an error of law and I uphold the decision.
8. The appeal to the Upper Tribunal is dismissed.

Signed

Dated 27th January 2015

Upper Tribunal Judge Martin