



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

Appeal Number: IA/25810/2014

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 24 November 2015**

**Decision and Reasons  
Promulgated  
On 27 November 2015**

**Before**

**Deputy Upper Tribunal Judge Pickup**

**Between**

**Rajesh Mahamadali Kanani  
[No anonymity direction made]**

Appellant

**and**

**Secretary of State for the Home Department**

Respondent

**Representation:**

For the appellant: No attendance

For the respondent: Mr S Whitwell, Senior Home Office Presenting Officer

**NOTICE OF ABANDONED APPEAL**

1. The appellant, Rajesh Mahamadali Kanani, date of birth 16.6.78, is a citizen of India.
2. This is his appeal against the decision of First-tier Tribunal Judge Bradshaw promulgated 3.3.15, dismissing his appeal against the decision of the Secretary of State, dated 3.6.14, to refuse his application made on 5.4.14 for leave to remain in the UK on human rights grounds. The Judge heard the appeal on 17.2.15.

3. First-tier Tribunal Judge Foudy refused permission to appeal on 8.5.15. However, when the application was renewed to the Upper Tribunal, Deputy Upper Tribunal Judge Norton-Taylor granted permission to appeal on 15.7.15.
4. Thus the matter came before me on 24.11.15 as an appeal in the Upper Tribunal.
5. By letter dated 23.11.15, the appellant's representatives, Kidrapinet Solicitors, wrote to notify the Tribunal that he had left the UK. Mr Whitwell also produced confirmation of the appellant's flight and departure from the UK on 16.8.15, copies of which are on the case file.
6. Under Section 104(4) of the 2002 Act, as it stood at the date of both application and decision (and in force until 20.10.14), an appellant who leaves the country is deemed to abandon his appeal. In R (on the application of MM (Ghana)) v Secretary of State for the Home Department [2012] EWCA Civ 827 it was held that for the purposes of section 104(4) of the Nationality, Immigration and Asylum Act 2002, the word "leaves" bore a purely physical meaning, the question being whether the applicant had by his voluntary action physically left the UK, whether for a short or a long term. The Court of Appeal said it had no jurisdiction to treat an application for permission to appeal as an application for permission to apply for judicial review of the Upper Tribunal's decision when the appeal against that decision had been abandoned under section 104(4).
7. In the circumstances, this appeal to the Upper Tribunal has been abandoned and by section 104(1)(b) is no longer pending. There is thus no appeal against the decision of the First-tier Tribunal and the decision of the First-tier Tribunal dismissing the appeal stands.



**Signed**

**Deputy Upper Tribunal Judge Pickup**

**Dated**

### **Anonymity**

I have considered whether any parties require the protection of any anonymity direction. No submissions were made on the issue. The First-tier Tribunal did not make an anonymity order.

Given the circumstances, I make no anonymity order.

**Fee Award**                      **Note: this is not part of the determination.**

In the light of my decision, I have considered whether to make a fee award.

I have had regard to the Joint Presidential Guidance Note: Fee Awards in Immigration Appeals (December 2011).

I make no fee award.

Reasons: The appeal has been abandoned.

A handwritten signature in black ink, appearing to read 'James Pickup', written in a cursive style.

**Signed**

**Deputy Upper Tribunal Judge Pickup**

**Dated**