



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

Appeal Number: IA/37773/2013  
IA/14754/2013

**THE IMMIGRATION ACTS**

**Determined at Field House  
On 24<sup>th</sup> March 2015**

**Determination  
Promulgated  
On 24<sup>th</sup> March 2015**

**Before**

**UPPER TRIBUNAL JUDGE COKER**

**Between**

**EDWARDRAJ PREMKUMAR  
JAKATHEESWARY SIVAKUMAR**

Appellant

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**DETERMINATION BY CONSENT**

Pursuant to Rule 39 of the Tribunal Procedure (Upper Tribunal) Rules 2008 and by the consent of the parties the following order is made:

Upon the determination in the First-tier Tribunal promulgated on 17<sup>th</sup> April 2014 disclosing a material error of law and being set aside on 9<sup>th</sup> October 2014.

And upon the parties having agreed (in accordance with the Statement of Agreed Facts of 3.3.15) that:

- i. the evidence establishes that Mr Premkumar acquired a Permanent Right of Residence in accordance with The Immigration (European Economic Area) Regulations 2006 (as amended) on 30.4.2006, having been lawfully resident in the UK since at least 2001 as the spouse of Ms Thirumugal Mariathas, a Danish national exercising a Community activity in the UK (irrespective of his marriage to her in a false identity)
- ii. Ms Sivakumar is entitled to succeed under paragraph EX.1 of the Immigration Rules (as amended); and
- iii. Their daughter Nimiya Premkumar, (although not a party to the appeal) was born a British citizen in the UK on 30.9.2011

It is ordered that:

1. The appeals be allowed.
2. Mr Premkumar is entitled to be issued with a residence permit.
3. Mrs Sivakumar is entitled to be granted leave to remain.

The appeals in the Upper Tribunal are therefore allowed. The decision of the First-tier Tribunal is set aside for legal error. The appeal against the decisions giving rise to the appeal in the First-tier Tribunal are allowed.

Signed

Date 24<sup>th</sup> March 2015



Upper Tribunal Judge Coker