



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

Appeal Number: IA/34360/2015

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 2 October 2017**

**Decision & Reasons  
Promulgated  
On 6 October 2017**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE SHERIDAN**

**Between**

**L R M BUWANEKA NUWAN KADURUGAMUWA  
(ANONYMITY DIRECTION NOT MADE)**

Appellant

**and**

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

Respondent

**Representation:**

For the Appellant: No attendance

For the Respondent: Mr P Duffy, Home Office Presenting Officer

**DECISION AND REASONS**

1. The appellant is a citizen of Sri Lanka born on 24 April 1973. On 30 October 2014 he applied for indefinite leave to remain in the UK on the basis of ten years' residence. On 18 March 2015 his application was refused.

2. The appellant appealed to the First-tier Tribunal. His appeal was heard by Judge Hussain who, in a decision promulgated on 7 March 2017, dismissed the appeal.
3. In the proceedings before the First-tier Tribunal, the appellant pursued a claim under Article 8 ECHR outwith the Immigration Rules, contending, inter alia, that removing him from the UK would breach Article 8 ECHR because he has two daughters who are British citizens.
4. Notwithstanding that in the appellant's bundle were photocopies of the British passports of his daughters, the First-tier Tribunal stated that the appellant's daughters "are without any leave" and made no reference to their British citizenship.
5. Before me, Mr Duffy conceded that (a) the judge had made an error of law in failing to recognise that the appellant's children were British and; (b) having regard to the Immigration Directorate Instructions Family Migration: Appendix FM Section 1.0b, he accepted that the appeal should be allowed under Article 8 on the basis of the appellant's relationship with his British national children. He advised that the Secretary of State was withdrawing its objection to the appeal.
6. Accordingly, I set aside the decision of the First-tier Tribunal and remake the decision by allowing the appellant's appeal under Article 8 ECHR.

### **Notice of Decision**

7. The decision of the First-tier Tribunal contains a material error of law and is set aside.
8. I remake the decision by allowing the appeal under Article 8 ECHR.
9. No anonymity direction is made.

Signed



Deputy Upper Tribunal Judge Sheridan    Dated: 4 October 2017