



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

Appeal Number: EA/00435/2016

THE IMMIGRATION ACTS

**Field House
2 February 2018**

**Decision & Reasons Promulgated
6 February 2018**

**Before
UPPER TRIBUNAL JUDGE JORDAN**

Between

Khan

Appellant

and

The Secretary Of State For The Home Department

Respondent

DECISION ON ERROR OF LAW

1. On 22 December 2017, Upper Tribunal Judge Blum, following the decision of the Court of Appeal in *Khan v. the Secretary of State for the Home Department* [2017] EWCA Civ 1755 proposed that the First-tier Tribunal was wrong in law to conclude that it did not have jurisdiction. The Judge was minded to set aside the decision of the First-tier Tribunal and remit the case to be re-made in the First-tier Tribunal. He directed that either party had 7 days to oppose his proposal. Since no objection was received within the period or at all, I can determine this appeal without a hearing by finding that there was an error of law, set aside the decision of the First-tier Tribunal and direct that the appeal is heard by the First-tier Tribunal.
2. Notwithstanding the above, the appeal was set down for hearing on 7 February 2018.
3. By letter dated 30 January 2018, the appellant wrote to the Tribunal requesting an adjournment. This is no longer necessary and I direct that the hearing fixed for 7 February 2018 in the Upper Tribunal is vacated.

4. The parties will be informed of the hearing before the first-tier Tribunal in due course. Notwithstanding the absence of the appellant's partner, it is expected that the parties will be ready to proceed at the next hearing.

DECISION

1. The Judge made an error on a point of law and I set aside his decision.
2. I remit the appeal to the First-tier Tribunal for the decision to be re-made.
3. I direct that the hearing fixed for 7 February 2018 be vacated.

ANDREW JORDAN
JUDGE OF THE UPPER TRIBUNAL