



**Upper Tribunal
(Immigration and Asylum Chamber)
EA/01049/2015**

Appeal Numbers:

EA/01052/2015

THE IMMIGRATION ACTS

Heard at Field House

Decision & Reasons

On 23 January 2018

Promulgated

On 14 February 2018

Before

DEPUTY UPPER TRIBUNAL JUDGE MCGEACHY

Between

**MISS HINA ALTAF BAJWA (FIRST APPELLANT)
MR HUMA ALTAF BAJWA (SECOND APPELLANT)
(ANONYMITY DIRECTION NOT MADE)**

Appellants

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellants: Mr R Sharma, of Counsel instructed by Messrs Stella Maris Solicitors LLP

For the Respondent: Mr E Tufan, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellants appeal against a determination of Judge of the First-tier Tribunal Mitchell who in a determination promulgated on 12 May 2017 dismissed their appeals for lack of jurisdiction.
2. The appellants had applied against a decision of the Entry Clearance Officer, Islamabad to refuse them EEA family permits to enable them to join an uncle in Britain as other family members under the provisions of Regulation 8 of the Immigration (EEA) Regulations 2006.

3. Judge Mitchell dismissed their claims applying the terms of the determination of the Tribunal in **Sala (EFMs: Right of Appeal) [2016] UKUT 00411/IAC**. He did not consider the merits of the claims.
4. The decision in **Sala** has been overturned by the Court of Appeal in their judgment in **Khan v SSHD [2017] EWCA Civ 1744**. In that judgment the Court of Appeal ruled that those who applied for leave to remain or enter under Regulation 8 of the Immigration (EEA) Regulations 2006 were entitled to a full right of appeal.
5. Mr Tufan conceded that therefore the decision of the judge in the First-tier was made in error and that therefore the appeal should be remitted to the First-tier for a hearing afresh on all issues.
6. It is appropriate therefore that I set aside the decision of the judge in the First-tier and direct that the appeal be remitted to the First-tier for a further decision.

Notice of Decision

The appeal is allowed to the extent that it is remitted for a hearing afresh and the First-tier Tribunal on all issues.

No anonymity direction is made.

Signed 

Date: 9 February 2018

Deputy Upper Tribunal Judge McGeachy