



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

Appeal Number: EA/07578/2016

THE IMMIGRATION ACTS

Heard at Field House

On 9 January 2018

**Decision & Reasons
Promulgated**

On 30 January 2018

Before

**DR H H STOREY
JUDGE OF THE UPPER TRIBUNAL**

Between

**MR MOHAMMAD MONIRUL ISLAM
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr M T Bin Aziz, Legal Representative, JS Solicitors

For the Respondent: Mr C Avery, Home Office Presenting Officer

DECISION AND REASONS

1. In a decision sent on 7 September 2017 Judge Griffith of the First-tier Tribunal (FtT) dismissed the appeal for want of jurisdiction by reference to the reported decision of the Upper Tribunal, **Sala (Extended family members - right of appeal) [2016] UKUT**. At the time the grounds were drafted **Sala** was awaiting hearing in the Court of Appeal. Since


then, of course, the Court of Appeal has handed down judgment in **Khan [2017] EWCA Civ 1755** overturning **Sala**.

2. Both parties are in agreement with me that the result of these developments should be that the case is remitted to the FtT for it to make a substantive decision in the appellant's appeal against the respondent's refusal of a residence card dated 9 June 2016.
3. The FtT Judge's decision cannot stand in the light of binding authority concluding that extended family members do have a right of appeal. Accordingly I set aside that decision for material error of law.
4. The case is remitted to the FtT to be heard afresh on the basis that it does have jurisdiction.

No anonymity direction is made.

Signed:

Date: 28 January 2018

A handwritten signature in black ink that reads "H H Storey". The signature is written in a cursive style with a large, looped 'S' at the end.

Dr H H Storey
Judge of the Upper Tribunal