



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: IA/13829/2015

THE IMMIGRATION ACTS

Heard at Field House
On 23 May 2018

Decision & Reasons Promulgated
On 25 May 2018

Before

UPPER TRIBUNAL JUDGE KOPIECZEK

Between

AHMED ADNAN SHAFI

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

DECISION PURSUANT TO RULE 40(3)(a) OF THE TRIBUNAL PROCEDURE (UPPER
TRIBUNAL) RULES 2008

1. Permission to appeal against the decision of First-tier Tribunal Judge Mulholland ("the FtJ") has been granted by a judge of the First-tier Tribunal ("FtT"). The FtJ concluded that she had no jurisdiction to hear the appeal against the decision to refuse a residence card as an extended family member, in the light of the decision in *Sala (EFMs: Right of Appeal)* [2016] UKUT 00411 (IAC).
- 2.
3. The appeal was listed before me to be heard on 23 May 2018 but in the light of the matters referred to below, no hearing took place.

4. By email dated 21 May 2018 to the Upper Tribunal (“UT”) the respondent states that in the light of *SM (Algeria) v Entry Clearance Officer* [2018] UKSC 9 it is accepted that there was a right of appeal to the FtT and that the appellant’s appeal to the UT is not opposed. It is suggested that the appropriate course is for the appeal to be remitted to the FtT. An email from the appellant’s representatives to the UT concurs with that view.
5. Accordingly, it being agreed between the parties that there is an error of law in the decision of the FtT, the decision of the FtT is set aside and the appeal is remitted to the FtT for a hearing *de novo* before a judge other than First-tier Tribunal Judge Mulholland. Pursuant to rule 40(3)(a) of the Tribunal Procedure (Upper Tribunal) Rules 2008, no reasons (or further reasons) are required, the decision being made with the consent of the parties.

Upper Tribunal Judge Kopieczek

23/05/18