



Upper Tribunal

(Immigration and Asylum Chamber)

Appeal Number: PA/12955/2018

THE IMMIGRATION ACT

Heard at Civil Justice Centre

Manchester

On 1st April 2019

Decision & Reasons Promulgated

On 3rd April 2019

Before

DEPUTY UPPER TRIBUNAL JUDGE MCCLURE

Between

Mr Mashuk Ali

(NO ANONYMITY DIRECTION MADE)

Appellant

And

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: In person

For the Respondent : Mr McVitie Senior Home Officer Presenting Officer

DECISION AND REASONS

1. This is an appeal by the Appellant against the decision of First-tier Tribunal Judge Thorne promulgated on the 11th January 2019 whereby the judge dismissed the appellant's appeal against the decision of the respondent to refuse the appellant's

protection claims on asylum, humanitarian protection and Article 2 and 3 grounds and to refuse the appellant's Article 8 claim based on family and private life.

2. I have considered whether or not it is appropriate to make an anonymity direction. Having considered all the circumstances I do not consider it necessary to do so.
3. Leave to appeal to the Upper Tribunal was granted by First-tier Tribunal Judge Keane on 13th February 2019. Thus the case appeared before me to determine whether or not there was a material error of law in the decision.
4. In granting leave to appeal the material part of the decision by Judge Keane provides as follows:-

The grounds amounted to no more than a disagreement with the findings of the judge, an attempt to reargue the appeal and they did not disclose an arguable error or errors of law but for which the outcome of the appeal might have been different.

However I have perused the judge's decision in order to ascertain whether it disclosed "Robinson obvious" concerns. Two concerns arose. First although the judge confirmed at paragraph 24 of his decision that he heard evidence from the appellant's brother, Boshir Ali the judge did not make findings of fact in respect of Boshir's evidence. In fairness to the judge I should acknowledge that at paragraph 53 of his decision the judge referred to the part of Boshir's evidence in which he denied he was the appellant's brother and the judge made a further reference to Boshir's evidence which suggested the discrepancy as to the amount of money which the appellant had borrowed. Such concise references however do not amount to an adequate assessment of Boshir's evidence and accordingly the extent to which Boshir's evidence might fairly be said to have supported the centrepiece of the appellant's account namely that he came to the adverse attention of a cousin to whom he owed a substantial sum of money. Second although the judge arrived at findings of fact which were negative to the appellant and indeed found that the appellant had not given a credible account of events the judge did not presage such an assessment by reference to the background evidence of conditions prevailing in Bangladesh. Such evidence was before the judge, a copy of the respondent's Country Policy and Information Note on Bangladesh 2018 was to be found at page 10 of the appellants bundle of documents and it was incumbent upon the judge to take into consideration the background evidence before arriving at findings in respect of the appellant's credibility.

5. It is on the basis indicated that Judge Keane suggest that there are arguable errors of law.
6. The original grounds of appeal themselves assert:-
 - a) The judge did not take into account the evidence as a whole and that there was sufficient in the evidence to show that the appellant had discharged the burden of proving that he owed in excess of £10,000 to a relative in Bangladesh. As the money was still owed it was claimed that the appellant was at risk of serious mistreatment and that he had a genuine fear.
 - b) It is submitted that the judge has not taken into account the case of MA (Somalia) v SSHD [2010] UKSC 49. The judge did not make findings on all aspects of the case and ignored the length of time that had passed since the money was originally loaned. In assessing the risk the judge failed to take account of the

CPIN report that in Bangladesh the police are under resourced and are reluctant to investigate people associated with the ruling political party.

- c) Proper consideration has not been given to the appellant's private life and the interference that removal would have in that private life.

Factual Background

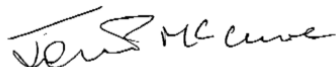
7. In essence the appellant's account was that he had borrowed money from a family member, Koddus Ali [K], and K was now pressing for repayment including threatening the appellant. It was also claimed that K had now taken over the appellant's father's land.
8. The judge noted that K lived next door to the appellant's family and have not sought to harm them.
9. Allegedly to avoid K the appellant had come to the United Kingdom on 1 August 2005. The appellant had applied and been granted a one-year work permit visa. It does not appear that his leave to remain in the United Kingdom was extended. The appellant became an over stayer. He was served with papers as an immigration over stayer on 24 February 2010. It does not appear that the appellant appealed against any notice served at that stage or sought to claim asylum. At the latest the appellant was appeal rights exhausted by at the latest 21 May 2010.
10. The appellant did not claim asylum until 19 June 2018. By decision on 1 November 2018 the appellant's application for international protection was refused.
11. The evidence otherwise discloses that the appellant had a wife and 6 children, who were still living in Bangladesh and who were living as stated next door to K.
12. The judge had in detail examined the appellant's account and noted material differences. The differences not only included the amount of money that had been borrowed but also as to whether the appellant was threatened when he was threatened and the circumstances of the threats. There are also discrepancies as to whether or not K was the brother or cousin of the appellant. The appellant had also given inconsistent accounts as to what he had done with the money in one instance spending 10,000 in paying off an existing loan, in another paying 10,000 or 20,000 to buy land. Despite paying such a huge amount of money the appellant appears not to have inspected the land and appears to have been given forged title deeds to the land appears not to have gone to the police.
13. The appellant had asserted that K had started issuing the threat before he came to the United Kingdom in his oral evidence but had stated in his asylum interview that the threats only began in 2016. If the threats only began in 2016 there was no reason for the appellant to remain between 2005 and 2016.
14. Appellant had called Boshir Ali to give evidence on his behalf. However Boshir Ali had given details which are again inconsistent with the appellant's account, with regard to the relationship of the appellant to K and other details. The details were also inconsistent as to the amount of money owed.

15. The judge has clearly compared the various accounts that have been advanced by the appellant and Boshir Ali. Having done that, the judge was satisfied that the claims by the appellant were not credible by reason of the inconsistencies in the various accounts. The judge gave reasons for finding the claims with regard to land and money were not credible. That was sufficient to dispose of the appeal. The judge has considered the account of Boshir Ali and given valid reasons for finding that that account was inconsistent with the account of the appellant on core elements of the appellant's claim. The judge has made sufficient findings with regard to the evidence of Boshir Ali and given sufficient reasons for finding thereafter that the appellant's account in light of all the inconsistencies was not credible.
16. With regard to the background information, given that the basis of the appellant's claim was not credible it was immaterial whether the background information was such as to identify that the police in Bangladesh were under resourced or whether otherwise the appellant would not have a sufficiency of protection or would be unable to relocate. If the appellant's account was not truthful there was no need for the appellant to seek protection from the authorities. Likewise if the appellant's account was not credible there was no need for him to seek to relocate to another area in order to be safe.
17. The judge has given ample reasons for finding that the appellant's account was not credible and therefore the appellant was not entitled to international protection.
18. Thereafter the judge has considered the article 8 rights of the appellant. The judge has carefully considered all the relevant circumstances and given valid reasons for finding that the decision was in all the circumstances proportionately justified. The judge in paragraph 94 of the decision has set out factors both for and against the appellant's private life in the United Kingdom. It was not suggested that the appellant had any family life here as pointed out above his family appeared to be in Bangladesh.
19. Further to that the judge pointed out that the appellant had failed to show that he could speak English, that the appellants private life had been established at a time when the appellant was unlawfully in the United Kingdom in the main or otherwise his status was precarious; that there was no legitimate expectation that he could make the United Kingdom his home; and that otherwise there were significant aspects private life tying the appellant to the United Kingdom other than the fact that he had been here for a length of time . On the basis of the evidence the judge was entitled to conclude that the decision was proportionately justified.
20. The judge was entitled in all the circumstances to conclude that the decision to refuse the appellant further leave did not breach the article 8 rights of the appellant.
21. In the circumstances there is no material error of law.

Notice of Decision

22. I dismiss the appeal on all grounds.

Signed



Deputy Upper Tribunal Judge McClure

Date 1 April 2019