



**IN THE UPPER TRIBUNAL**  
**IMMIGRATION AND ASYLUM CHAMBER**  
**ON THE PAPERS**

Case Nos: **UI-2023-003338**  
**UI-2023-003339**  
**UI-2023-003340**  
First-tier Tribunal Nos:  
**HU/54478/2022**  
**HU/54479/2022**  
**HU/55061/2022**

**THE IMMIGRATION ACTS**

**Decision & Reasons Issued:**  
**On the 27 November 2023**

**Before**

**UPPER TRIBUNAL JUDGE LINDSLEY**

**Between**

**SHAILESHKUMAR NANJI MASANI (1)**  
**NAYNABEN SHAILESH MASANI (2)**  
**MAYUR SHAILESHKUMAR MASANI (3)**  
**(NO ANONYMITY ORDER MADE)**

Appellant

**and**

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

**DECISION AND REASONS**

1. The appellants are citizen of India, the first and second appellants being husband and wife, and the third appellant being their son. They arrived in the UK on 15<sup>th</sup> May 2015 as visitors. On 7<sup>th</sup> April 2021 they made an Article 8 ECHR application to remain in the UK. This application was refused in decisions of the respondent dated 6<sup>th</sup> and 27<sup>th</sup> July 2022. Their appeal against the decision was dismissed by First-tier Tribunal Judge Cansick after a hearing on the 31<sup>st</sup> May 2023.
2. Permission to appeal was granted by Judge of the First-tier Tribunal ID Boyes on 4<sup>th</sup> August 2023 on the basis that it was arguable that the First-tier judge had erred in law in failing to explain why there was no family life and why it should be treated less favourably.
3. The respondent filed a Rule 24 response written by senior presenting officer Mr C Avery dated 24<sup>th</sup> August 2023 agreeing that the First-tier Tribunal had erred in law in the application of s.117B of the Nationality, Immigration and Asylum Act 2002 to the Article 8 ECHR assessment and

submitting that the matter should be remitted to the First-tier Tribunal for remaking de novo.

4. An error of law is therefore found by consent. I find that this matter can be determined on the papers as the parties are in agreement that the First-tier Tribunal has erred in law and that the matter needs to be completely remade. I find that the extent of remaking makes it appropriate for the appeal to be remitted for rehearing to the First-tier Tribunal rather than remade in the Upper Tribunal.

Decision:

1. The making of the decision of the First-tier Tribunal involved the making of an error on a point of law.
2. I set aside the decision of the First-tier Tribunal dismissing the appeal.
3. I remit the appeal to be reheard de novo (with no findings preserved) by a Judge of the First-tier Tribunal other than Judge Cansick.

**Fiona Lindsley**

Judge of the Upper Tribunal  
Immigration and Asylum Chamber

**20<sup>th</sup> November 2023**