



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

Case No: UI-2023-005618

First-tier Tribunal No: HU/53971/2021

**THE IMMIGRATION ACTS**

**Decision & Reasons Issued:**

On 12<sup>th</sup> of November 2024

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE COTTON**

**Between**

**SANTOSH DURA**  
**(NO ANONYMITY ORDER MADE)**

Appellant

**and**

**ENTRY CLEARANCE OFFICER**  
**SHEFFIELD**

Respondent

**Representation:**

For the Appellant: Ms McCarthy, Counsel instructed by Everest Law Solicitors

For the Respondent: Ms Gilmur, Senior Home Office Presenting Officer

**Heard at Field House on 13 September 2024**

**DECISION AND REASONS**

Introduction

1. The appellant is a national of Nepal born in 1977. His father (“the sponsor”) served in the Brigade of Gurkhas between 1960 and 1968. The sponsor was issued with a settlement visa on 19 September 2012, and the sponsor and his wife (the appellant’s mother) moved to the UK in December 2012. The appellant sought entry clearance on 18 February 2021 as the adult dependent child of the sponsor. The respondent refused the application on 10 May 2021 and the appellant appealed to the First-tier Tribunal (FtT) on the basis that the respondent’s decision unlawfully interfered with his art 8 ECHR rights.
2. In a determination dated 27 November 2022 Judge Kinch of the FtT (“the Judge”) dismissed the appeal. The Judge heard evidence from the appellant’s

mother, but not the sponsor who was not well enough to give evidence. The appellant sought, and was granted, permission to appeal on three grounds:

- a. The Judge failed to consider relevant evidence of giving financial support from 2012-2020.
- b. The Judge failed to consider relevant evidence of the appellant's need for financial support.
- c. The Judge failed to put a point to the appellant concerning a certificate issued by the local municipality.

#### Submissions – Error of Law

3. I had the benefit of submissions on behalf of both parties as well as the written grounds of appeal. The appellant confirmed to me that reference to the 'record of proceedings' referred to in the grounds of appeal was in fact a reference to the note of counsel in the FtT and that no transcript of the FtT hearing had been sought.
4. The appellant submitted that the only issue for the FtT to determine was whether art 8(1) was engaged at the date of the hearing. It had, submitted the appellant, been engaged at the time the sponsor and his wife moved to the UK.
5. The first ground of appeal relates to the claimed money transfers that were made in the period 2012 to 2020 which were said to have been made by a system called "hundi" of which no records were kept. The appeal is to the effect that the Judge failed to take into account that the appellant's mother is illiterate, that proper weight was not given to the receipts that were in evidence, that the witness (the appellant's mother) was not the person who made the transfers, that the evidence of the appellant's mother that they stopped using that form of transfer when they heard money went missing for others was consistent with her degree of involvement, that the judge failed to take into consideration evidence that the hundi system did not produce receipts and failed to take into consideration that there was not reason for the family to keep any receipts.
6. The appellant further submitted that the reasons given by the Judge were insufficient.
7. The respondent submitted that there was a detailed record of the mother's oral evidence and so the Judge has clearly taken it into consideration when they state at [23] they have given consideration to the totality of the evidence. The Judge did consider the mother's illiteracy, although it wasn't raised as an issue.
8. The second ground of appeal was that the Judge failed to take into consideration that the appellant remained in the village whilst his siblings went to India, that there were no work opportunities for the appellant and that it is consistent with the suggestion that the appellant needed support to say that subsistence farming provides an insufficient income.
9. The respondent said that the case had to be seen with the bigger picture in mind. The appellant had stayed in the family village but had built a family unit of his own. His family life was with both his family and his parents. The Judge had considered the appellant's individual circumstances as they were required to, including assessing the amount of contact the appellant has with his parents and

whether this amounts to more than a normal relationship between grown child and parents.

10. The third ground of appeal centred on the Judge's analysis of a certification letter dated 15 November 2020 which states that "according to his self-declaration and witness at the ward level" the appellant is unemployed and is dependent on his parents.
11. The appellant submitted before me that this is reference to a witness separate to the appellant, although it was accepted that this could be read both as referring to the appellant being the witness referred to or to it being a separate witness.
12. The grounds of appeal pleaded that the Judge erred by finding this was a self-serving document and that this should have been put to the appellant in cross examination if the judge were to make negative findings on it.
13. The respondent submitted that, however the document is read, the judge gave sufficient reasons for coming to the conclusion that it was self-serving and that the Judge was entitled to come to that conclusion.

#### Analysis and conclusions

14. The Judge records at [23] that they have taken into consideration the totality of the evidence provided to them. I consider that this includes the fact that the appellant's mother has signed her witness statement with an "X". The Judge describes her statement as "written in her name" rather than "her statement" or similar. It was not suggested to me that the mother's illiteracy was an issue before the FtT and I would not expect the Judge to spend more time on it than they have if they do not need to make a decision on it. The Judge gives a summary of the evidence that she gave. I am not persuaded that the Judge has failed to take any of her evidence into account. It is not apparent on the face of the judgment that the mother's literacy is of any relevance to the Judge's assessment of her credibility as a witness, or to the weight that the Judge gives to her evidence. The Judge does consider that her evidence was vague in nature, but this is not about the information that one might expect to find on a remittance receipt, rather it is in relation to not knowing where her husband would go to make the payments every month since the end of 2012.
15. The Judge does note that there is evidence of money being remitted from November 2020 and states at [32] that there are 10 pages of financial documents evidencing financial payments. The Judge spends 4 paragraphs outlining this evidence, including the document that they give no weight as it names someone other than the sponsor sending money. I find it without merit to say that the Judge has not given sufficient weight to those documents. The Judge has plainly given careful consideration to them and then, after discussing the evidence of the appellant's mother on remittances, comes to a conclusion on the evidence of transfers, including giving reasons at [43] for the reduced weight that these are deserving of. This part of ground 1 is nothing more than a disagreement with an assessment of weight that the Judge was perfectly entitled to come to.
16. The submission that the Judge gave "no regard" to the fact that it was the sponsor and not the witness (the appellant's mother) who made the transfers is equally without merit. The Judge details that this was the evidence they received and that, at [37] "Even if the sponsor were responsible for the making of any

payments by Hundi, it is reasonable to expect that the appellant's mother would have some idea about where it was that her husband would go". The not only had regard to this, but analysed how it played into the weight to be given to the evidence that the appellant did produce. The same could be said for the submission that the Judge has failed to take into account evidence that the Hundi system did not produce receipts. The Judge outlines the evidence that was received to that effect at [36].

17. If the appellant's submission is correct that the mother's evidence they stopped using Hundi transfers because they heard money went missing is consistent with her degree of involvement, I am not persuaded that this has any impact on the integrity of the FtT determination. Ms McCarthy did not develop this submission before me. The Judge's assessment of the witness' credibility centres on her vagueness, and I cannot see that the level of involvement that she had links to that part of the evidence. The same point can be made about the submission, also not elaborated on before me, that the Judge failed to take into consideration that there was no reason for the family to keep remittance receipts.
18. With regards to the second ground of appeal, the Judge details at [28] that the appellant lives in the home that he grew up in, at [31] that the appellant's evidence was that he could not survive without his parents' support, and at [42] the evidence of the appellant's mother that the appellant's siblings work in India. The Judge has outlined the evidence they took into consideration sufficiently and is not expected to repeat every piece of evidence before coming to their conclusion. The judge has come to a properly reasoned conclusion, and has plainly taken the evidence into consideration. There is no error of law in this ground.
19. With regards to the third ground of appeal, I approach this in two stages. Firstly, whether the evidence supports the conclusion the judge came to, namely that the certificate is a result of information the appellant alone gave to the local official. I find that it does – the certificate's wording refers to the appellant's "self-declaration and witness", not the appellant's "self-declaration and the declaration of a witness". It was reasonable for the Judge to find that the wording means "self-declaration and self-witness". I assess that the reading of "self-declaration and witness" that the appellant invites (ie that it reads as "self-declaration and declaration of a witness") would not be a natural reading of the document.
20. The second stage is whether the judge should have raised this in the hearing. It was not raised by either party, I am told. The appellant pleads that the point should have been raised if there was lack of clarity as to the meaning of the certificate. Having found that not only is the Judge's interpretation of the certificate reasonable, but is the natural meaning of it, it appears to me that there was no lack of clarity as to what the certificate recorded. A Judge is entitled to rely on a reasonable reading of a document without raising every possible different meaning it could have with the parties. The Judge did not err.
21. If I am wrong in this analysis, I find that the Judge would inevitably have come to the same conclusion on the weight to be attributed to the certificate. It would have been inevitable that the Judge would give limited weight to the evidence of an unnamed and untested (and untestable) witness, covering the appellant's employment status at the date of the certificate being issued. If there is an error, it is not material.

**Notice of Decision**

1. The making of the decision of the First-tier Tribunal did not involve the making of an error on a point of law.
2. I do not set aside the decision.

D Cotton

Judge of the Upper Tribunal  
Immigration and Asylum Chamber

10 November 2024