



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: VA/35541/2012

THE IMMIGRATION ACTS

Heard at Bradford
On 9th August 2013

Determination Promulgated
On 19th August 2013
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Before

UPPER TRIBUNAL JUDGE D E TAYLOR

Between

KALSOOM BEGUM

Appellant

and

ENTRY CLEARANCE OFFICER

Respondent

Representation:

For the Appellant: Mr Hussain of Legal Justice Solicitors
For the Respondent: Mrs Pettersen, Home Office Presenting Officer

DETERMINATION AND REASONS

1. This is the Appellant's appeal against the decision of Judge Sarsfield made following a hearing at Bradford on 14th May 2013.

Background

2. The Appellant is a citizen of Pakistan born on 1st January 1958. She appealed against the Respondent's decision made on 13th September 2012 to refuse to grant her entry clearance to come to the UK as a visitor. The Respondent was not satisfied that she was a genuine visitor who would leave the UK at the end of her holiday.
3. The judge dismissed the appeal and the Appellant sought permission to appeal in lengthy grounds. On 10th June 2013 Judge Davidge granted permission.
4. Although the Respondent put in a reply defending the determination, Mrs Pettersen, at the hearing, said she accepted that this appeal would have to be re-heard because it was not at all clear what the judge's assessment of the witnesses had been and his conclusions were not supported by adequate reasons.
5. The decision is set aside and must be re-made for the reasons set out in the grounds and acknowledged by Mrs Pettersen.

The re-hearing

6. I heard oral evidence from the Appellant's daughter and from her niece, the Sponsor.
7. In the original refusal the Entry Clearance Officer said that he was not satisfied about the Appellant's circumstances in Pakistan. She had said that she was widowed and supported by her two sons and she received a monthly rental income of 3,000 rupees (£19). She provided a bank statement for each of her sons, neither of which demonstrated a regular monthly income and both showed recent deposits which were inconsistent with the account history. The Entry Clearance Officer was not satisfied that the origin of the funds in the statements was genuinely available to her.
8. The Appellant's niece, Zahida, said that she was sponsoring her aunt. She wanted her to visit the UK in order to meet two of her brothers who had never been to Pakistan and to see other members of the family. She confirmed that her aunt received rental income from the downstairs of her property and lived with her two sons, one of whom ran a grocery shop and the other of whom was a tailor in the local market. All of the family put their cash into a single pot of money. She said that she thought that originally her aunt was going to come for six months, perhaps not the whole time depending on whether she liked it but agreed that the application form said that she wanted to come for three.
9. The Sponsor said that she fully understood the obligations which being a Sponsor entailed and that she could assure the Tribunal that her aunt would return. She understood the effect that that would have on the other members of the family in terms of future applications if she did not.
10. Farzana Bibi, the Appellant's daughter, also gave oral evidence and confirmed the Sponsor's evidence so far as the Appellant's living arrangements were concerned. She was now pregnant and she wanted her mother with her. She said that she

wanted her mother to come and see her granddaughter who was only 2 years old. She would only be coming for a short visit since all of her other relatives were in Pakistan and she lives with her two sons and her grandson to whom she is devoted. She also said that her mother would come for three months. None of her other relatives had come to the UK except for her maternal grandfather who visited a long time ago and then returned.

Submissions

11. Mrs Pettersen said there were no issues so far as maintenance was concerned but she queried why there was no evidence for the source of funds in the bank account and was surprised that there was no record of the tenancy in the downstairs part of the property. She said that there was insufficient evidence to show what the Appellant's circumstances really were in Pakistan and that the Entry Clearance Officer's concerns had not been answered.
12. Mr Hussain submitted that the appeal should be allowed. The Appellant was a genuine visitor. Most of her relatives including her two sons and her grandchild lived in Pakistan, but her daughter and her sister's family lived in the UK and she wanted to visit them here.

Findings and Conclusions

13. I am satisfied that I was given wholly credible evidence by the witnesses today. It is clear that the Appellant lives in a traditional manner with her two sons in Pakistan and there is no reason to conclude that she intends to leave them and come and live with her daughter here. This is not a case where there has been large-scale family migration. The majority of the Appellant's relatives live in Pakistan. The Appellant has a perfectly sensible reason for wanting to visit the UK and ample incentive to return.
14. I accept that the way that the family run their life it is unlikely that they would be able to produce written evidence of income, including tenancy income, but the oral evidence has been consistent and there is no reason at all to disbelieve it. I accept from Mr Hussain that it is likely that the family put any money that they have into their bank account. In fact in all likelihood the sums deposited before the application was made were put there because the family believed that it would be necessary to establish that they had funds. I see nothing untoward in that.

Decision

15. The decision of the judge is set aside. The decision is re-made as follows. The appeal is allowed.

To the Respondent - Fee Award

I have allowed the appeal and a fee award is made.

Signed

Date

Upper Tribunal Judge Taylor