



**Upper Tribunal  
(Immigration and Asylum Chamber)**

Appeal Number: IA/03210/2014

**THE IMMIGRATION ACTS**

**Heard at Field House**

**Determination**

**Promulgated**

**On 1<sup>st</sup> August 2014**

**On 05<sup>th</sup> Aug 2014**

**Before**

**UPPER TRIBUNAL JUDGE MARTIN**

**Between**

**MR SHIVRAJ RAGHAV**

Appellant

**and**

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Mr R Mobbs (instructed by Duncan Lewis & Co)

For the Respondent: Mr P Deller (Senior Home Office Presenting Officer)

**DETERMINATION AND REASONS**

1. This is an appeal to the Upper Tribunal, with permission, by the Appellant with regard to a determination of the First-tier Tribunal (Judge Verity) promulgated on 30<sup>th</sup> May 2014.
2. The Appellant in this case sought a residence card as a spouse under the EEA Regulations. His application was rejected on the basis that the marriage was a marriage of convenience. The Secretary of State had come to this conclusion partly following a visit by enforcement officers to the couple's address and partly following an interview.

3. In readiness for the hearing the Appellant's representatives had lodged a bundle comprising 234 pages of statements and evidence. They then filed supplemental bundle containing further evidence, in particular text messages. At the hearing the Appellant and his wife gave evidence before the judge.
4. The judge, in her determination, found that the marriage was indeed a marriage of convenience and that the Appellant and Sponsor were not credible witnesses and dismissed the appeal.
5. Taking the determination in isolation the conclusions that the judge reached based on the discrepant evidence were decisions that she was entitled, indeed would be expected to make. However, what the judge does not do anywhere in her findings is make any reference whatsoever to the large amount of evidence filed on the Appellant's behalf. In particular there were a vast number of text messages included in the evidence as well as bills and documents addressed to their home. There are submissions on the point referred to but no findings. I accept Mr Mobbs' submission that these could have influenced the judge's decision, notwithstanding the adverse findings based on the oral evidence.
6. Mr Deller did not seek to persuade me otherwise and accepted the determination contained a material error of law and could not stand. Accordingly, I set aside the determination in its entirety, although as I pointed out to Mr Mobbs, he should make clear to the Appellant and Sponsor that the oral evidence and discrepancies in that determination are there to be taken into account in future.
7. With the consent of both parties and in view of the fact that the Appellant has not had a proper assessment of his case in the First-tier Tribunal I remit the matter to that Tribunal to be heard afresh on all issues.
8. **The Appellant's representatives are directed to file and serve on the Home Office a composite bundle containing all the evidence upon which they rely no later than 14 days before the hearing. The Appellant's representatives should not assume that the evidence that was before the First-tier Tribunal remains in the court file.**
9. **The matter is listed to be heard in the First-tier Tribunal at Hatton Cross hearing centre on 27th February 2015, a date Mr Mobbs confirmed as suitable.**

Signed

Date 5th August 2014

Upper Tribunal Judge Martin