



IAC-FH-AR-V1

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

Appeal Number: IA/21202/2012

THE IMMIGRATION ACTS

**Determined at Field House
On the Papers**

**Determination Promulgated
On 7 November 2014**

Before

UPPER TRIBUNAL JUDGE CRAIG

Between

SASITHARAN ANTHONY CRUZE

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

DETERMINATION AND REASONS

1. This determination is given following directions which I gave on 21 August 2014, in which I invited both parties to make further submissions in writing in light of the decision in *Raju and Others* [2013] EWCA Civ 754 in which the decision of the Presidential Tribunal in *Khatel* [2013] UKUT 44 was overturned.
2. Subsequent to these directions further representations have been received on behalf of both parties, and there is now agreement between the parties that in light of the Court of Appeal decision in *Raju* the substantive appeal against the immigration decision must be dismissed but that the removal decision under Section 47 was unlawful. I agree and so find.

Decision

I set aside the determination of First-tier Tribunal Judge Blackford as containing a material error of law and substitute the following decision:

The appellant's appeal against the substantive decision refusing to grant him further leave to remain is dismissed, under the Immigration Rules and on human rights grounds, Article 8.

The appellant's appeal is allowed to the extent that the removal decision under Section 47 of the Immigration, Asylum and Nationality Act 2006 was not in accordance with the law.

Signed:

Date: 6 November 2014

Upper Tribunal Judge Craig