



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

Appeal Number: IA/26801/2013

THE IMMIGRATION ACTS

**Heard at Field House
on 22nd May 2014**

**Determination
Promulgated
On 21 July 2014**

Before

UPPER TRIBUNAL JUDGE HANSON

Between

**SAMEER THAPAR
(Anonymity direction not made)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: No appearance.

For the Respondent: Miss Isherwood – Senior Home Office Presenting Officer.

DETERMINATION AND REASONS

1. This is an appeal against a determination of First-tier Tribunal Judge NM Paul promulgated on the 11th February 2014 in which the Judge dismissed the Appellant's appeal against the Respondent's refusal to vary his leave to remain in the United Kingdom.
2. Permission to appeal was sought although initially refused by the First-tier Tribunal. It was, however, granted on a renewed application by Upper Tribunal Judge Chalkley.
3. Notice of the place, date, and time of the hearing before the Upper Tribunal was sent to the Appellant and his representative in accordance with the Procedure Rules; although the Appellant failed to attend the hearing. The Tribunal received a fax from his nominated

representatives on the day of the hearing stating their client had not contacted them for a fortnight and that they understood he had, in fact, withdrawn his instructions for them to attend the hearing. They also asked to be removed from the record.

4. The notice of hearing was sent to the Solicitors and Appellant in person at his last known address for service and has not been returned as having not been delivered by the Post Office. Miss Isherwood handed the Tribunal a copy of an additional item of correspondence written to the Appellant by Eaton House - Immigration (Voluntary Departure Team) thanking him for providing them with details for his departure arrangements. The letter confirms how he may collect his passport and the flight number and flight time of a flight departing from Heathrow Airport to India the day before the hearing. All the evidence indicates that the Appellant has agreed to return to India, his country of nationality, and is likely to have done so although Miss Isherwood was unable to obtain confirmation as a result of technical issues that he had actually boarded the plane and left the United Kingdom.
5. If the Appellant has left the country he is deemed to have abandoned his appeal and there is nothing extant before the Upper Tribunal upon which I am required to make a decision. If he has not left the United Kingdom he has failed to attend the hearing and failed to adduce any evidence in support of his assertion that the First-tier Judge has made a material legal error.
6. Although there is a strong indication the Appellant has left the United Kingdom, this has not been confirmed. I find however, even if he has not, that he has failed to discharge the burden of proof upon him to the required standard to show any legal error material to the decision to dismiss the appeal has been made in the determination.

Decision

7. **There is no material error of law in the First-tier Tribunal Judge's decision. The determination shall stand.**

Anonymity.

8. The First-tier Tribunal did not make an order pursuant to rule 45(4)(i) of the Asylum and Immigration Tribunal (Procedure) Rules 2005. I make no such order.

Signed.....
Upper Tribunal Judge Hanson
Dated the 17th July 2014

