Upper Tribunal
(Immigration and Asylum Chamber) Appeal Numbers: AA/01002/2015

THE IMMIGRATION ACTS

Heard at Stoke	**Decision and Reasons Promulgated**
On 8 October 2015	**On 12 October 2015**

Before

UPPER TRIBUNAL JUDGE PLIMMER

Between

EL
ANONYMITY DIRECTION MADE

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:
For the Appellant: Mr Lane, Counsel
For the Respondent: Mr McVeety, Home Office Presenting Officer

DECISION AND REASONS

1. The appellant has made an asylum application and I make an anonymity order pursuant to Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008. Unless the Tribunal or a Court directs otherwise, no report of these proceedings or any form of publication thereof shall directly or indirectly identify the original appellant. This direction applies to, amongst others, all parties. Any failure to comply with this direction could give rise to contempt of court proceedings.

2. In a decision promulgated on 2 April 2015 First-tier Tribunal Judge Gurung-Thapa dismissed the appellant's appeal on asylum and human rights grounds. The judge accepted that the appellant and her elder daughter had been subjected to female genital mutilation (FGM) in Nigeria and her younger daughter is at real risk of FGM if the family return to the Appellant's home area or Lagos, where her husband (and her children's father) is from. The judge accepted the SSHD's contention that the family could reasonably relocate to the capital city of Nigeria, Abuja, where she found there would be no real risk of FGM being carried out. The Judge provided detailed and comprehensive reasons for this. The Judge expressly considered: the size and geography of Nigeria and the distance between Abuja and Lagos (para 46); that the family would not be sought out in Abuja by other family members intent on carrying out FGM (para 47); there was no real risk that the appellant's twins would be at real risk in Abuja city (paras 49 and 50); the appellant and her husband were highly educated and would be able to find suitable employment in Abuja (paras 51-52).

3. Mr Lane focussed his submissions on the judge's failure to consider the reasonableness of relocation for this particular family in light of the likely discrimination they would face in Abuja as 'non-indigines'. He pointed to information contained within the Nigeria COI report dated 14 June 2013 to support his submission that ethnic discrimination was pervasive and those who move to another area in Nigeria frequently encounter discrimination, such that they might be compelled to return to their home area. He argued that it followed that the Judge had erred in law in failing to consider the reasonableness of expecting the family to relocate in light of this evidence.

4. This submission faces two insurmountable hurdles such that in my judgment it cannot be said that the judge has materially erred in law.

5. First, Mr Lane conceded that there was no evidence to support the submission available to the judge and that the submission was not even made before the judge. This is a case in which the SSHD clearly raised Abuja as a suitable area for internal relocation for the family within the decision letter refusing asylum. The appellant and her representatives therefore had notice of the issue. The appellant's witness statements raises a number of reasons why she did not consider that Abuja would be safe or reasonable for the family. This did not include ethnic discrimination. Her witness statements are silent on this as is the skeleton argument provided to the judge. The focus of the evidence and the submissions was upon the practice of killing twins in Abuja and the Judge was entitled to reject this evidence for the reasons she provided. Indeed, Mr Lane accepted that the very extract that he relied upon within the COI report was not in the appellant's bundle before the Judge.

6. The judge properly directed herself to the relevant test and was entitled to conclude that it would be reasonable for the family to relocate to Abuja for the reasons provided. It cannot properly be said that the judge erred in law in failing to address evidence and submissions, which were not before her.

7. Secondly, the evidence that is available sets out in general terms the prevalence of ethnic discrimination in Nigeria. There was no evidence that the ethnic profile of Abuja is such that this particular family would be discriminated and if so to what extent bearing in mind their education and employment history. There was and is very little to support the nature and extent of discrimination in Abuja and its likely impact upon this particular family.

8. I am satisfied that the decision under appeal contains no material error of law and the judge has adequately reasoned her decision that relocation to Abuja for this particular family would be safe and reasonable.

Decision

9. I do not find that the decision of the First-tier Tribunal contains an error of law.

10. I do not set aside the decision of the First-tier Tribunal.

Signed:

Ms M. Plimmer
Judge of the Upper Tribunal

Date:
8 October 2015