



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

Appeal Number: IA/22252/2014

THE IMMIGRATION ACTS

Heard at Field House

On 19th May 2015

Determination

Promulgated

On 20th May 2015

Before

**DEPUTY JUDGE of the UPPER TRIBUNAL
GA BLACK**

Between

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT
Appellant**

and

MR KEYUR PURUSHOTTAM PATEL

Claimant

Representation:

For the appellant:

Mr N Bramble (Senior Home Office Presenting Officer)

For the claimant:

Mrs S Ali (Counsel instructed by Shehzad Chambers)

NOTICE OF WITHDRAWAL

1. This case was listed before me for consideration of whether or not there is an error of law in the determination of First-tier Tribunal (FtT) Judge Miles promulgated on 9th February 2015 in which the Judge allowed the appeal to the extent that the decision made was not in accordance with the law and remitted the matter to the Secretary of State for reconsideration under section 55 Borders, Citizenship & Immigration Act 2009.

2. Mr Bramble conceded that in light of the recent Upper Tribunal decision in **MK (section 55 - Tribunal options) Sierra Leone [2015] UKUT 00223 (IAC)** the decision made by the FtT showed no error of law. In effect **MK** had to an extent resolved the apparent conflict between the Court of Appeal judgment in **AJ (India) v SSHD [2011] EWCA CIV 1191** and the Upper Tribunal decision in **JO & others (section 55 duty) Nigeria [2014] UKUT 00517 (IAC)** by clearly stating the policy of the Secretary of State at [23]. Mr Bramble acknowledged that in this instance the Secretary of State totally failed to consider where the best interests of the two children lie.
3. Mrs Ali, who prepared a response under Rule 24, confirmed that she had no objections to the withdrawal of the appeal.
4. **I give permission for the appeal to be withdrawn in accordance with Rule 17 Upper Tribunal Procedure Rules 2008.**
5. Accordingly the decision and reasons of the FtT shall stand.
6. The proceedings in the Upper Tribunal are now disposed of and have come to an end.

Signed

GA Black (Deputy Judge of the Upper Tribunal)
Dated 19.5.2015