

**Upper Tribunal
(Immigration and Asylum
Chamber)**
IA/31550/2014



Appeal Number:

THE IMMIGRATION ACTS

**Heard at Bradford
On 18th March 2015**

**Decision & Reasons Promulgated
On 13th April 2015**

Before

UPPER TRIBUNAL JUDGE ROBERTS

Between

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

**MISS SANJANA RENU JUGGOO
(ANONYMITY DIRECTION NOT MADE)**

Respondent

Representation:

For the Appellant: Mrs R Pettersen, Home Office Presenting Officer

For the Respondent: Miss Mair, of Counsel

DECISION AND REASONS

1. The Secretary of State appeals with permission against the decision of the First-tier Tribunal (Judge Myers) which in a decision promulgated on 30th October 2014, allowed Sanajana Renu Juggoo's appeal against the Secretary of State's decision of 24th July 2014 to refuse her indefinite leave to remain as a dependant child.
2. For the sake of clarity throughout these proceedings I shall refer to the Secretary of State as "the Respondent" and Sanjana Renu Juggoo as "the Appellant", as they were before the First-tier Tribunal.

Background

3. There is a background to this appeal. The Appellant is a citizen of Mauritius who entered the UK on 16th November 2013 initially with six months' leave to enter. On 31st March 2014 she applied for indefinite leave to remain in order to be cared for by her aunt who is her Sponsor. The Appellant travelled with her younger brother Luvnish Juggoo who also made application for indefinite leave to remain albeit with another aunt currently residing in the UK.
4. The Appellant and her brother lived in Mauritius with their parents. Their father died in October 2013 and their mother became seriously ill with depression and was therefore unable to work. She was unable to look after herself let alone the Appellant her brother. She is being cared for in Mauritius by her mother, the Appellant's grandmother. The Appellant's grandmother is elderly and unable to take on the task of caring for her daughter and her daughter's two children.
5. As there was no-one to look after the children it was agreed within the family that the Appellant and her brother would come to the UK to live with other family members who are present here. The Appellant therefore lives with her Aunt Madoomatee Emambocus a British citizen and her brother Luvnish Juggoo lives with Aunt Kowsaleesa Seewooruttun, an Italian citizen exercising Treaty rights in the UK.
6. For some reason, the appeals of Sanjana Renu Juggoo and her brother were not linked; possibly because Sanjana Renu Juggoo's application was refused under the paragraph 298 of the Immigration Rules whereas Luvnish Juggoo's application was refused under the EEA Regulations.
7. However despite the appeals not being linked the appeals of both Sanjana Renu Juggoo and her brother coincidentally came before the same First-tier Tribunal Judge, although on different dates. The Judge heard Luvnish Juggoo's appeal first and allowed it. When she heard Sanjana Renu Juggoo's appeal she also allowed it relying a great deal on the findings that she had made in Luvnish Juggoo's case. Central of course to both appeals was the question of dependency.
8. The Respondent sought and was granted permission to appeal both decisions.
9. Luvnish Juggoo's appeal came before me in Bradford on 5th January 2015 and a copy of my decision in his appeal is annexed to this decision. Luvnish Juggoo's case has now resolved. Miss Mair produced as part of the evidence in Sanjana Renu Juggoo's appeal, a copy of the Respondent's decision granting Luvnish Juggoo a Certificate of Residence as the dependant of his Aunt Kowsaleesa Seewooruttun.

Sanjana Renu Juggoo's Appeal

10. So far as Sanjana Renu Juggoo is concerned the Respondent sought permission to appeal on two grounds.

(i) Serious and compelling family or other considerations.

It was said by the Respondent that the findings made by the First-tier Tribunal Judge did not satisfy the requirements of paragraph 298 as

they did not amount to serious and compelling family or other considerations making Sanjana's exclusion undesirable.

(ii) Application of Luvnish Juggoo.

The respondent's challenge to Luvnish Juggoo's appeal is material to the consideration of Sanjana Renu Juggoo's circumstances in Mauritius and the impact on her of any return there.

11. Permission to appeal was granted to the Respondent but on the sole basis that the outcome of the ongoing appeal in Luvnish Juggoo's decision is material to Sanjana Renu Juggoo's appeal.
12. Mrs Pettersen before me quite properly agreed that the FtT Judge had made clear findings on the issue of dependency and that the first ground seeking permission is disposed of in any event. She accepted that the second ground seeking permission effectively also now falls away. Luvnish Juggoo's case has been resolved. He has been granted a residence document and that grant implicitly acknowledges that Luvnish Juggoo cannot be cared for other than by his Italian national aunt who is resident here in the UK. Equally it follows that Sanjana Renu Juggoo who is also a minor cannot be cared for other than by her British citizen aunt and Sponsor. It was accepted therefore that the First-tier Tribunal Judge had not materially erred in her consideration when allowing Sanjana Renu Juggoo's appeal and the decision therefore should stand.

Decision

13. The Secretary of State's appeal against the FtT's decision is dismissed. The decision of the FtT allowing the appeal of Sanjana Renu Juggoo contains no error of law and therefore stands.

No anonymity direction is made

Signature

Dated 18th March 2015

Judge of the Upper Tribunal