



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

Appeal Number: IA/36202/2014 &

THE IMMIGRATION ACTS

**Heard at Columbus House,
Newport
On 29th April 2015**

**Decision and Reasons
Promulgated
On 18th May 2015**

Before

UPPER TRIBUNAL JUDGE POOLE

Between

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

**KIRAN BALA MALIK (& OTHERS)
(ANONYMITY DIRECTION NOT MADE)**

Respondent

Representation:

For the Appellant: Mr D Mills, Home Office Presenting Officer

For the Respondents: Mr R Davies, Counsel

DETERMINATION AND REASONS

1. In this decision notice I will refer to the parties in the style in which they appeared before the First-Tier Tribunal.
2. The appellant is a female citizen of India, born 24 January 1983. She applied for leave to remain in the United Kingdom as Tier 1 (Entrepreneur) Migrant under the Points Based System. Her husband and

their daughter applied as her dependents. The application was refused and the appellant appealed against that decision.

3. The appeal came before Judge of the First-Tier Tribunal Suffield-Thompson sitting at Newport on 4 December 2014. An oral hearing was held and both parties were represented (the appellant by Mr Davies). In a decision dated 6 December 2014, the judge allowed the appeal “under the Immigration Rules”.
4. The respondent sought leave to appeal based upon one ground of misdirection of law by reason of the judge accepting documentary evidence on the day of the hearing by reference to the case of **DR (Morocco) [2015] UKAIT 0038**. The respondent alleged that case related to entry clearance cases only and was specifically not relevant in cases involving the Points Based System.
5. Another judge of the First-Tier Tribunal agreed that it was arguable the judge had erred and also referred to the determination as being “relatively brief and not well reasoned”.
6. Hence the matter came before me sitting in the Upper Tribunal.
7. Mr Davies produced a skeleton argument which included a view that even without the document allowed in by the judge, there were sufficient findings made by Judge Suffield-Thompson to substantiate her decision that the appellant succeeded under the rules.
8. Having considered the matter, Mr Mills indicated that he accepted that argument and he was withdrawing the appeal on behalf of the Secretary of State. I indicated that I agreed with that view. Although the judge was in error it was not material to the outcome. Accordingly I consented to the withdrawal.

Decision

9. Appeal withdrawn. The decision of the First-tier Judge will stand.

Signed

Date

Upper Tribunal Judge Poole