



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

Appeal Number: EA/03527/2015

THE IMMIGRATION ACTS

**Heard at Field House
On 22nd December 2017**

**Decision & Reasons Promulgated
On 28th December 2017**

Before

UPPER TRIBUNAL JUDGE COKER

Between

MAHMOOD AHMED ALI EL HAG

Appellant

And

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr J Rene, instructed by Waterfields Elder Rahimi Solicitors
For the Respondent: Mr P Deller, Senior Home Office Presenting Officer

DETERMINATION AND REASONS

1. On 17th November 2017, I granted the appellant permission to appeal in the following terms:

1. Permission to appeal the First-tier Tribunal decision having been given by the Upper Tribunal on 27th October 2017 following the decision in *Khan v SSHD* [2017] EWCA Civ 1755, the Upper Tribunal proposes

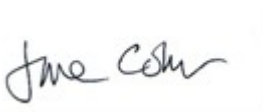
- (a) to find a material error of law in the decision of the First-tier Tribunal to dismiss the appeal for want of jurisdiction;
 - (b) remit the case to the First-tier Tribunal for hearing.
2. If either party objects to this course of action they are directed to make written submissions to be received by the Upper Tribunal within 14 days of the date of these directions being sent out.
 3. If no written submissions are received, the Tribunal's decision as set out in (1) above stands and the case will be remitted for hearing before the First-tier Tribunal.
2. The respondent, in her Rule 24 response stated that she as considering her position and requested an oral hearing. Mr Deller informed me that an application for permission had been made to the Supreme Court but the outcome was awaited.
 3. The judgment of the Court of Appeal in *Khan v SSHD* [2017] EWCA Civ 1755 represents the law and is binding on the UT. Importantly, the Court did not stay paragraph 1 of its Order, which was to allow the appeal.
 4. For this reason, I allow the appeal and remit the appeal to the First-tier Tribunal for determination.

Conclusions:

The making of the decision of the First-tier Tribunal did involve the making of an error on a point of law.

I set aside the decision and remit the appeal to the First-tier Tribunal to remake.

Date 22nd December 2017



Upper Tribunal Judge Coker