



**Upper Tribunal
(Immigration and Asylum Chamber)
IA/26214/2015**

Appeal Numbers:

IA/26216/2015

THE IMMIGRATION ACTS

Heard at Field House

**Decision & Reasons
Promulgated**

On 29th August 2017

On 11th September 2017

Before

UPPER TRIBUNAL JUDGE MARTIN

Between

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

And

**MRS SANDEEP KAUR
MR ANKIT CHHABRA
(ANONYMITY DIRECTION NOT MADE)**

Respondents

Representation:

For the Appellant: Ms Z Ahmad, Home Office Presenting Officer

For the Respondents: Mrs P Glass, Counsel, instructed by Malik Law Chambers
Solicitors (Southall)

DECISION AND REASONS

1. This is an appeal to the Upper Tribunal by the Secretary of State in relation to a Decision and Reasons of Judge Adio promulgated on 21st December 2016 following a hearing at Hatton Cross on 22nd November 2016. The Appellants before the First-tier Tribunal are both Indian citizens and unmarried but in a relationship which is not and was not challenged by the

Secretary of State. They sought leave to remain on human rights grounds outside of Appendix FM because Appendix FM did not apply to them. The appeal proceeded on the basis of allowed to the extent that the decision of the First-tier Tribunal is set aside in its entirety and the matter remitted to the First-tier Tribunal for a full rehearing. paragraph 276ADE(6) of the Immigration Rules and freestanding Article 8.

2. The judge in his Decision set out the Appellants' case, which was that they are of different castes and different religions that both sets of parents have withdrawn any support from them and indeed they argued that they were at risk of an honour killing.
3. The judge noted in the Decision, however, that there had been no asylum claim and then went on to deal with just the 276ADE point about whether they were entitled to succeed on the basis that there were very significant obstacles to their reintegration into India. However, the judge did not apply that test. He simply applied a test of whether there were significant obstacles. He made no reasoned findings as to whether they would be able to obtain employment and support themselves in India. They claimed that they would not be able to but he made no finding on that. It was argued in front of me that the judge clearly had in mind the risk of an honour killing although the judge did not make any reasoned finding about that in his judgment and what was in his mind is irrelevant.
4. The reasons behind the judgment are wholly inadequate and apply the wrong legal test. The President of the Upper Tribunal in the case of Treebhawon (NIAA 2002 Part 5A - compelling circumstances test) [2017] UKUT 00013 (IAC) makes clear that very significant obstacles means what it says, a self-evidently elevated threshold such that mere hardship, mere difficulty, mere hurdles and mere upheaval or inconvenience, even when multiplied, will generally be insufficient in this context. The philosophy and reasoning, with appropriate adjustments, of the Upper Tribunal in its exposition of the sister test "unduly harsh" in MK (Sierra Leone) [2015] UKUT 223 at paragraph 46 apply.
5. I therefore set aside the First-tier Tribunal's Decision and while I would have redecided it had there been an interpreter present today I am unable to do so. I am told that although it is claimed the second Appellant is well-integrated in the UK her English is insufficient to conduct the hearing without an interpreter and for that reason I am left with little alternative but to remit the matter to the First-tier Tribunal for a full rehearing.
6. The appropriate First-tier Tribunal remains Hatton Cross. Accordingly it is my Decision that the Respondent's appeal to the Upper Tribunal is allowed to the extent that the Decision is set aside and the case remitted for a full rehearing.

Notice of Decision

The appeal to the Upper Tribunal is allowed to the extent that the decision is set aside in its entirety and the matter is remitted to the First-tier Tribunal for a full rehearing.

No anonymity direction is made.

Signed

Date 8th September 2017

Upper Tribunal Judge Martin