



**Upper Tribunal
(Immigration and Asylum Chamber)
EA/13392/2016**

Appeal Number:

THE IMMIGRATION ACTS

Heard at Field House

**Decision & Reasons
Promulgated**

On 22 November 2018

On 20 December 2018

Before

UPPER TRIBUNAL JUDGE ALLEN

Between

**MR MOHAMMAD MASUM MRIDHA
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr M Bhutyan, Legal Representative, Haque & Hausman
Solicitors (London)

For the Respondent: Ms K Pal, Home Office Presenting Officer

DECISION AND REASONS

1. This is the renewed hearing of Mr Mridha's appeal against the refusal by the Secretary of State to grant him permanent residence under Regulation 15 of the Immigration, European Economic Area Regulations of 2006. That decision was made on 1 November 2016.
2. There was an earlier hearing before me in August of this year when I found errors of law in the judge's decision on the basis that he had erred about the earnings of the appellant's former partner in concluding that it had not been shown that he was exercising treaty rights at the date of dissolution of the marriage. There are two points, as I noted there, one that it had

been held by the Court of Appeal in Baigazieva that it is the date of instigation of proceedings, rather than the dissolution of the marriage that is the key date, but also there was evidence in the bundle before the judge from HMRC going to show employment and more latterly also self-employment of the partner going into the tax year 2016 to 2017.

3. I had helpful submissions from both sides today and also have been taken to the relevant documentation in the bundle and also documentation that was, I am told, shown to the judge but was not in the bundle. It was produced I think perhaps on the day of the hearing and I am satisfied that the evidence does show that Mr Mridha's former partner was exercising treaty rights at the date of the instigation of the divorce proceedings, the documentation on that is clear and in fact there is documentation to show that he himself was also exercising community rights at the relevant dates.
4. As a consequence therefore, I have already found that the judge's decision fell to be overturned for errors of law. This is the remaking of the decision and it seems to me clear on the evidence that the requirements of the Regulations are met in this case and as a consequence the appeal against the decision of the Secretary of State is allowed.
5. No anonymity direction is made.



Signed

Date 7 December 2018

Upper Tribunal Judge Allen