



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

Appeal Number: HU/08986/2016

THE IMMIGRATION ACTS

Heard at Field House

On 18 April 2018

**Decision & Reasons
Promulgated
On 30 April 2018**

Before

UPPER TRIBUNAL JUDGE GRUBB

Between

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

KHALED AHMED

Respondent

Representation:

For the Appellant: Mr S Kotas, Senior Home Office Presenting Officer

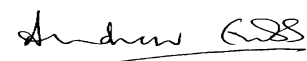
For the Respondent: Ms C Physass instructed by Deen & Co, Solicitors

DECISION AND REASONS

1. The Secretary of State appeals against a decision of the First-tier Tribunal (Judge Majid) allowing the respondent's appeal against the Secretary of State's decision taken on 14 March 2016 to refuse the respondent leave to remain based upon Art 8 of the ECHR.
2. The First-tier Tribunal (Judge A D Baker) granted the Secretary of State permission to appeal on number of grounds, including lack of reasoning and procedural unfairness.

3. The appeal was listed for hearing before me on 18 April 2018. Prior to the hearing, the respondent's legal representatives, Deen & Co Solicitors, acknowledged in a rule 24 response dated 11 April 2018 that, based upon the Secretary of State's grounds of appeal, there were material errors of law in the judge's determination, in particular that the judge had failed to make clear findings on key issues. They accepted that the judge's decision should be set aside and the matter remitted to the First-tier Tribunal for rehearing. They requested that the appeal listed for 18 April be vacated.
4. The Secretary of State acknowledged in an e-mail dated 16 April 2018, that the appeal hearing should be vacated and the judge's decision set aside and the appeal remitted to the First-tier Tribunal.
5. On 16 April 2018, the Upper Tribunal Duty Judge, informed the parties that the appeal would remain listed "for mention" although the parties need not attend. In fact, both parties' representatives attended the hearing. Ms Physaas (on behalf of the respondent) and Mr Kotas (on behalf of the Secretary of State) adopted the concessions previously made that the decision was legally flawed and should be set aside.
6. In the light of the concession by the respondent's legal representatives, I am satisfied that Judge Majid materially erred in law in allowing the respondent's appeal.
7. The decision is set aside and the appeal is remitted to the First-tier Tribunal for a *de novo* rehearing before a judge other than Judge Majid.

Signed



A Grubb
Judge of the Upper Tribunal

25 April 2018