



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

Appeal Number: HU/11520/2016

THE IMMIGRATION ACTS

**Heard at Field House
On 7 September 2018**

**Decision & Reasons
Promulgated
On 25 September 2018**

Before

DEPUTY UPPER TRIBUNAL JUDGE ZUCKER

Between

**IFTEKHAR [S]
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Fouladvand, Legal Representative
For the Respondent: Ms A Everett, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The Appellant is a citizen of India whose date of birth is recorded as 15th June 1973. He made application for leave to remain in the United Kingdom on human rights grounds. The application was refused. He appealed. The

matter came before Judge of the First-tier Tribunal Suffield-Thompson sitting at Newport on 29th August 2017.

2. It is clear from the decision and from the papers that there was a time when the Appellant's case was linked with that of his former partner and three children. Those three children are all minors, the eldest has a date of birth of 28th November 2009, the next 25th April 2010 and the youngest 13th March 2014. Application was made for the appeals, if indeed they were appeals at that time, of the former partner of the Appellant and children to be severed from this Appellant so that Judge Suffield-Thompson considered only the appeal of this Appellant. Judge Suffield-Thompson then went on to resolve the appeal against the Appellant.
3. Not content with that decision by notice dated 24th January 2018 the Appellant made application for permission to appeal to the Upper Tribunal. Having at first been refused permission by the First-tier Tribunal, the renewed application was granted on 2nd March 2018 by Upper Tribunal Judge Kebede on the basis that it was arguable that the judge erred by making findings without reference to the Family Court order issued on 16th May 2017. There were in fact other documents which might have been called for and which when this matter last came before me I directed should be obtained from the Family Court. Those documents have now been obtained and have been made available both to the Appellant's representative and to the Secretary of State.
4. By consent there is an error of law in this case on the basis that the judge did not look to all of the material evidence to which regard to it had been had. I should add that I agree.
5. The issue for me then is whether to remit the case to the First-tier Tribunal or to re-make it. I take the view that the Appellant's appeal should never have been separated from that of his former partner and children. The case of **Beoku-Betts** makes it clear that there is only one family in family life and even though the Appellant and his former partner are estranged, still the family life is to be considered in the context of those relationships.
6. I direct therefore in remitting this matter to the First-tier Tribunal that insofar as the Appellant's former partner has ongoing proceedings in the First-tier Tribunal this appeal shall be linked to it and be heard before the same judge. In those circumstances the First-tier Tribunal consider whether notwithstanding the minority of the children their best interests can still be served by family life continuing in India where both parents may need to go if leave is not granted or whether they should continue in the United Kingdom. It seems to me that the First-tier Tribunal would be significantly handicapped, as indeed I would be, if this matter were to proceed with only the Tribunal having an eye on part of the case.

Notice of Decision

The appeal to the Upper Tribunal is allowed on the basis of a material error of law.

The appeal is remitted to the First-tier Tribunal to be heard at Hatton Cross (the Appellant has changed address so that Newport is no longer appropriate) to be linked, appeal reference number being HU/02645/2018 (the Appellant's partner's appeal). It is understood that this is to be listed on 21st December 2018, however if there is any change to the date of the partner's appeal then necessarily consideration will have to be given to this appeal as they are from this date hence linked.

I also direct that the Resident Judge at Hatton Cross shall consider what further directions should be made in this appeal.

No anonymity direction is made.

Signed

Date 24 September 2018

A handwritten signature in black ink, appearing to read 'Zucker', with a long horizontal flourish extending to the right.

Deputy Upper Tribunal Judge Zucker