



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

Appeal Number: HU/12575/2018

THE IMMIGRATION ACTS

Heard at Birmingham IAC (Priory Courts) **Decision & Reasons Promulgated**

On 3 June 2019

On 12 July 2019

Before

DEPUTY UPPER TRIBUNAL JUDGE DAVEY

Between

**MRS RANJIT KAUR
(ANONYMITY ORDER NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Appearances:

For the Appellant: Mr Thathall, Counsel

For the Respondent: Mrs H Aboni, Senior Presenting Officer

DECISION AND REASONS

1. The Appellant, a national of India, date of birth 26 June 1957, appealed against the Respondent's decision, dated 19 May 2018, to refuse leave to remain on human rights grounds.

2. Her appeal came before First-tier Tribunal Judge Taylor (the Judge), who dismissed the appeal on 9 October 2018. Permission to appeal was given by First-tier Tribunal Judge Swaney on 22 November 2018.

3. The judge said in granting permission, at paragraph 3

“The judge has focused on whether or not the Appellant is a ‘family member’. Arguably this approach is flawed, as the question to be answered is whether or not the Appellant enjoys family life with her son, daughter-in-law and grandchildren. It is not necessary for the Appellant to be a ‘parent’ for the purposes of enjoying family life and she is plainly a member of her son’s family. The judge has not made reference to the guidance on how the existence of family life is established between family members other than spouse/partner and minor children (Kugathas v SSHD [2003] EWCA Civ 31).”

4. I conclude, having read the judge’s decision, that the judge had failed correctly to address the relationship between the Appellant, as a grandparent and the children as well as with her own children. In doing so the judge had failed to consider the significance of the impact of her being required to leave, both on the family and for her own part in being separated from her grandchildren.

5. In these circumstances I concluded the appropriate course was that the matter should be entirely remade. Trying to save findings of fact would impede an effective reconsideration of the matter.

DECISION

The appeal is allowed to the extent that the matter is returned to the First-tier Tribunal. The Original Tribunal’s decision does not stand.

ANONYMITY ORDER

No anonymity order was sought nor is one was required.

DIRECTIONS

1. List for hearing in the First-tier Tribunal.
2. All documentation relied upon to be updated not less than ten clear working days before the resumed hearing.
3. Any other directions to be sought in the First-tier Tribunal.
4. List at Nottingham Justice Centre, not before First-tier Tribunal Judge I F Taylor.

A handwritten signature in black ink, appearing to read 'T. Davey', with a stylized flourish at the end.

Signed

Date 24 June 2019

Deputy Upper Tribunal Judge Davey