



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: EA/03028/2016

THE IMMIGRATION ACTS

Heard at Field House
On 28 March 2018

Determination Promulgated
On 23 May 2018

Before

DEPUTY UPPER TRIBUNAL JUDGE MURRAY

Between

MR DON NUWAN C. LAKMAL WIJEWICKRAMA
(ANONYMITY DIRECTION NOT MADE)

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Mansoor, Lawland Solicitors, London

For the Respondent: Ms Holmes, Home Office Presenting Officer

DECISION AND REASONS

1. The appellant is a citizen of Sri Lanka born on 5 May 1987. He appealed against the decision of the respondent dated 23 February 2016 refusing to grant him a residence card as the extended family member of an EEA national. His application was made in accordance with Regulation 8 of the Immigration EEA Regulations 2006.

2. His appeal was heard by Judge of the First-Tier Tribunal Saffer on 7 July 2017 and dismissed for want of jurisdiction in a decision promulgated on 24 July 2017. This was because of the decision in the case of Sala [2016] UKUT 00411 (IAC).
3. The Sala decision has been overturned and permission to appeal has been granted by Judge of the First-Tier Tribunal Baker on 29 January 2018. The permission is based on the recent Court of Appeal decision in Khan v SSHD [2017] EWCA Civ 1755. There is a letter from the respondent on file confirming that she has no objection to the Upper Tribunal setting aside Judge Saffer's decision and remitting it to the First-Tier Tribunal to be heard afresh.
4. Counsel for the appellant accepted the situation.

Decision

I direct that the decision of the First-tier Tribunal is set aside. None of its findings are to stand other than as a record of what was said on that occasion. It is appropriate in terms of Section 12(2)(b)(i) of the 2007 Act and of Practice statement 7.2 to remit the case to the First-tier Tribunal for an entirely fresh hearing.

The members of the First-tier Tribunal chosen to consider the case are not to include Judge Saffer.

Anonymity has not been directed

Signed

Date 21 May 2018

Deputy Upper Tribunal Judge Murray