



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: HU/07409/2016

THE IMMIGRATION ACTS

Heard at Field House
On 31 May 2018

Decision & Reasons Promulgated
On 19 June 2018

Before

DEPUTY UPPER TRIBUNAL JUDGE LATTER

Between

RANJNA KUNWAR HIRENDRASINGH RAJPUT
(ANONYMITY DIRECTION NOT MADE)

Appellant

and

ENTRY CLEARANCE OFFICER, NEW DELHI

Respondent

Representation:

For the Appellant: Mr D Baldroop, counsel.

For the Respondent: Mr L Tarlow, Home Office Presenting Officer

DECISION AND REASONS

1. This is an appeal by the appellant against the decision of the First-tier Tribunal promulgated on 26 July 2017 dismissing her appeal against the respondent's decision of 23 February 2016 refusing her leave to enter as the spouse of a British citizen.

2. The respondent was not satisfied that there was sufficient evidence to show that the appellant's relationship with her husband, the sponsor, was genuine and subsisting or that they intended to live together permanently in the UK. The appellant appealed against this decision. The appeal was listed for hearing at Hatton Cross on 22 June 2017 but there was no appearance on behalf of the appellant by the sponsor or her legal representatives. In the absence of any explanation for this failure, the judge proceeded with the hearing and the appeal was dismissed.
3. Permission to appeal was refused by the First-tier Tribunal but the application was renewed to the Upper Tribunal and included witness statements from the sponsor and the appellant's solicitors saying that neither had received the notice of hearing. In the light of this further evidence, permission to appeal was granted by UTJ Rintoul.
4. At the hearing before me, Mr Tarlow accepted that there had been a procedural irregularity causing unfairness and both he and Mr Baldroop submitted that the proper course was for the appeal to be remitted to the First-tier Tribunal. In the light of the Senior President's Practice Direction, this is clearly the appropriate course in the circumstances of this appeal.

Decision.

5. Accordingly, there has been a procedural failure amounting to an error of law. The decision is set aside. The appeal is remitted to the First-tier Tribunal for reconsideration by way of a full rehearing before a different judge.

Signed: H J E Latter

Dated: 8 June 2018

Deputy Upper Tribunal Judge Latter