



IAC-AH-KEW-V1

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

Appeal Number: IA/33949/2014

THE IMMIGRATION ACTS

**Heard at Bradford
On 8 July 2015**

**Decision & Reasons Promulgated
On 8 September 2015**

Before

UPPER TRIBUNAL JUDGE CLIVE LANE

Between

**MIRZA IMRAN BAIG
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms L Mairs, instructed by Prolegis Solicitors LLP

For the Respondent: Mr M Diwnycz, a Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant, Mirza Imran Baig, was born on 2 December 1987 and is a male citizen of Pakistan. The appellant entered the United Kingdom on a valid visit visa in May 2006. He subsequently applied to remain in the United Kingdom on the basis that he has contracted an Islamic marriage to Shabnum Nazli (hereafter referred to as the sponsor). His application was refused by a decision of the respondent dated 3 September 2013. The appellant was not given a right of appeal. The appellant applied for permission to bring judicial review proceedings and a further refusal dated 13 August 2014 (granting a right of appeal to the appellant) was issued by the Secretary of State. The appellant appealed against that decision to

the First-tier Tribunal (Judge Robson) which, in a determination dated 21 November 2014 dismissed the appeal. The appellant now appeals, with permission, to the Upper Tribunal.

2. Mr Diwnycz, for the respondent, at the hearing on 8 July 2015 at Bradford acknowledged that the First-tier Tribunal had erred in law. Accordingly, I allow the appeal and set aside Judge Robson's decision. The appeal will be returned to the First-tier Tribunal for that Tribunal (not Judge Robson) to re-make the decision.
3. The reasons for my decision are as follows. The judge had accepted that the appellant and sponsor had contracted an Islamic marriage on 4 November 2011. He was, however, doubtful as to the subsistence of any relationship between the couple, in particular during 2014. The judge found [71] that "[the documents in the appellant's bundle] simply show however that the parties have been in a relationship this year and there is a huge gap to demonstrate the relationship between the beginning of this year and the date of the Islamic marriage." Both parties accept that the judge appears to have ignored documentary evidence relating to the relationship in the appellant's bundle and covering the period November 2011 - September 2013. The documents are detailed in the grounds of appeal [9]. If the judge rejected that evidence, he should have given his reasons for doing so.
4. I also find that the judge's findings regarding the appellant's relationship with the sponsor's child are not entirely consistent. Given the judge found that there was a lack of evidence as to the subsistence of the relationship between the appellant and sponsor [E6] it is not clear how he might, in those circumstances, have any kind of relationship with the sponsor's child. It is clear that the judge believed that there was a relationship although he did find [88] that the appellant's "presence has [not] in any way improved [the child's] behaviour." The judge had not accepted that this was a "family splitting case" (*sic*) [86] but he does not seek to define what relationship, if any, exists between the child and the appellant nor has he considered the best interests of the child and how those best interests might be affected by the appellant's removal to Pakistan (see Section 55 of the Borders, Citizenship and Immigration Act 2009).
5. For these reasons, I have set aside the decision. None of the findings of fact shall stand. The matter will be re-heard and the decision re-made in the First-tier Tribunal sitting at Bradford.

Notice of Decision

The decision of the First-tier Tribunal (Judge Robson) is set aside. None of the findings of fact shall stand. The appeal shall be remitted to the First-tier Tribunal (not Judge Robson) for that Tribunal to re-make the decision.

No anonymity direction is made.

Signed

Date 2 September 2015

Upper Tribunal Judge Clive Lane