



IAC-FH-AR-V1

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

Appeal Number: IA/31436/2014

THE IMMIGRATION ACTS

Heard at Field House
On 2 July 2015
Prepared 2 July 2015

Decision & Reasons Promulgated
On 10 July 2015

Before

DEPUTY UPPER TRIBUNAL JUDGE DAVEY

Between

**SABA SAEED
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr J Wells, Counsel, instructed by M&K Solicitors
For the Respondent: Mr T Melvin, Home Office Presenting Officer

DECISION AND REASONS

1. The Appellant, a national of Pakistan, date of birth 29 October 1989, appealed against the Respondent's decision, dated 30 July 2014, to refuse to issue a residence card under the Immigration (European Economic Area) Regulations 2006, Regulation 2, on the basis that the marriage between the Appellant and her EEA national Sponsor, Marius Ghita, was sham.

2. Her appeal against that decision came before First-tier Tribunal Judge Somal (the judge) who, on 23 February 2015, dismissed the appeal under the 2006 Regulations.
3. Permission to appeal was given by First-tier Tribunal Judge Landes on 27 April 2015.
4. The Respondent served a Rule 24 response on 13 May 2015.
5. At the hearing before me Mr Melvin and Mr Wells accepted that the judge had failed to deal with the allegation that the marriage between the Appellant and Sponsor EEA national was a marriage of convenience and a sham. Mr Wells said that in effect part of the problem was that the Respondent having had refused the EEA national Sponsor entry to the United Kingdom, the Sponsor was having to conduct an out of country appeal against the refusal of entry clearance.
6. A further issue was raised, although it is somewhat confusingly expressed in the grant of permission, as to whether or not the Appellant can be dependent upon children of the EEA national Sponsor. The question is with reference to Regulation 7(1)(c) of the 2006 Regulations and is directed at whether or not a stepmother in such circumstances can qualify under those provisions. I express no view as to whether or not that issue has any prospects of success.
7. It is, however, agreed that the judge did not give adequate or proper reasons and failed to address the issue of the sham marriage and in those circumstances such limited findings of fact as the judge made really cannot stand. It is agreed that the matter will have to be fully remade by the First-tier Tribunal.
8. The Original Tribunal's decision cannot stand. The appeal is allowed to the extent that the matter is to be returned to the First-tier Tribunal to be decided in accordance with the law.

Directions

- (1) List for hearing 1½ hours.
- (2) No interpreter required.
- (3) Any further documents relied upon by the parties to be submitted not less than 10 working days before the further hearing.
- (4) Case to be listed at a London hearing centre or if none is available at an appropriate one with reference to Mr Wells' availability to attend.
- (5) Not to be listed before First-tier Tribunal Judge Somal nor before First-tier Tribunal Judge Landes.

No anonymity direction is made nor is one appropriate.

Signed

Date 7 July 2015

Deputy Upper Tribunal Judge Davey