



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

Appeal Number: HU/06491/2016
HU/06493/20
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HU/06498/20
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HU/06500/20
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THE IMMIGRATION ACTS

**Heard at Field House
On 15 February 2018**

**Decision & Reasons
Promulgated
On 7 March 2018**

Before

DEPUTY UPPER TRIBUNAL JUDGE DAVIDGE

Between

**JAHANARA [B]
MD ANAMUL HAQUE [J]
MD JABED [M]
[S B]
(NO ANONYMITY ORDER)**

Respondent

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

Representation:

For the Appellant: Mr Noor, instructed directly

For the Respondent: Ms Aboni, Senior Home Office Presenting Officer

DECISION AND REASONS

The appellant and proceedings

1. The Secretary of State who is the appellant in these proceedings was the respondent in the First-tier Tribunal, and for convenience I refer to the parties as they were before the First-tier Tribunal.
2. The appellants are Bangladeshi citizens. The principal appellant is a twice divorced 47 years old woman, and the other appellants are her two sons from her first marriage and a daughter from her second marriage.
3. They applied to visit the principal appellant's 75-year-old mother who has health problems that make travel problematic and her sister who suffered spinal cord injuries which result in her being a wheel chair user. The Entry Clearance officer examined and refused the applications against the visit visa immigration rules on issues of credibility and intention to return. The ECO decided Family Life was not engaged as ties between the appellant and her mother and sister had not been shown to be out of the ordinary. The appellant's appealed contesting the credibility issues and intent to return and asserted the decision breached their Article 8 rights.
4. The Ft -T found in favour of the appellants on the credibility and intention to return points and those findings are not challenged. The judge brought forward his findings on the factual matrix, decided Article 8 was engaged and concluded the decision breached article 8 rights and allowed the appeal.
5. The Secretary of State appeals, with permission granted at the First-tier Tribunal, on the ground of inadequate reasoning as to the engagement of Article 8 on family life grounds.

My consideration and findings

6. Ms Aboni relied on the grounds asserting that the judge failed to explain why there was family life between the appellant and her mother and aunt given that case law guides that family life will only exist in very unusual circumstances.
7. At paragraph 15 the judge found, in the context of the appellant being a divorced woman, that she is financially dependent on her mother and family in the UK having no other source of income. Further she, along with her children, are dependent on her mother for accommodation as she lived in her mother's house. In terms of the nature and character of the relationships he noted not only the close blood relationships, but the abundance of evidence of interactions between them, including a history of visits when the elders health permitted.

8. The grounds do not challenge any of the factual findings or point to any omissions in the factual matrix. The grounds rely on a passage from the case of Mostapha (Article 8 in entry clearance) [2015] to the point that unusual circumstances are required to show the existence of a family life sufficient to engage Article 8 between parents and adult children, and between adult siblings. Ms Aboni added to the grounds, arguing that there needed to be more than financial dependence, there needed to be emotional dependence.

Discussion

9. The case of Mostapha makes plain very unusual circumstances are required to result in family life relationships between adults. It is plain from the decision that the judge concluded that on the particular factual circumstances operating here, including of dependence and contact that this was such a case. The judge has fully explained why he finds the appellants to be dependent on the principal appellant's mother and sister in the UK. Those findings are not challenged. In terms of the emotional element of the relationships the judge made findings on the closeness of the relationship taking account of the principal appellant's status as a divorced woman living without the support of other relatives close by and as shown by the evidence of contact. The judge correctly self-directed in terms of the need to address the threshold test in respect of family life at [15] and concluded that the threshold was met. It is not suggested that that was a finding that was not open to him on the evidence, but rather than he had failed to adequately reason it by reference to the case of Kugathas. However, given that the judge's consideration is framed in the context of dependence I find the challenge is formulaic rather than substantive. The judge assesses the character and quality of the relationship of dependence taking account of marital status, lack of familial relationships in the country of origin, age, health and the financial dependence as well as the provision of accommodation. The judge also takes account of the gravity of interference (which is not challenged). I find the ground is not made out.
10. Ms Aboni confirmed in the event that I find the judge was not in error in finding that there is family life, there is no challenge to the assessment of proportionality. Bearing in mind that amongst other matters the judge found that the requirements of the rules were met that is not surprising.
11. The decision reveals no error of law.

Decision

12. The decision of the First-tier Tribunal allowing the appeal reveals no error of law and stands.

Signed

Date 15 February 2018

Appeal Number: HU/09083/2016
HU/09087/2016
HU/09088/2016
HU/09092/2016

Deputy Upper Tribunal Judge Davidge