



Upper Tribunal  
(Immigration and Asylum Chamber)

Appeal Number: VA/02451/2013

**THE IMMIGRATION ACTS**

Heard at Field House  
On 05 March 2014

Determination Promulgated  
On 20 March 2014

Before

UPPER TRIBUNAL JUDGE GLEESON

Between

MRS SUKHWINDER KAUR

Appellant

and

ENTRY CLEARANCE OFFICER  
NEW DELHI

Respondent

**Representation:**

For the Appellant: Mr M Iqbal, Counsel instructed by Farani Javid Taylor Solicitors  
LLP  
For the Respondent: Mr C Avery, Senior Home Office Presenting Officer

**DETERMINATION AND REASONS**

1. The appellant appeals with permission against the decision of Immigration Judge Geraint-Jones QC who dismissed her appeal against the respondent's refusal to grant

her a visit visa. It appears from the Entry Clearance Officer's refusal that an earlier application was also unsuccessful.

2. The Entry Clearance Officer set out the matters which concerned him in his decision of 18 December 2012 and they were subject to the usual entry clearance review which maintained the decision. The decision turned both before the Entry Clearance Officer and before the First-tier Tribunal on the question of the appellant's intention to return to India at the expiry of her visa, and upon whether she was genuinely seeking entry as a visitor.
3. The determination is challenged on rationality grounds as set out in the grounds of appeal. The appellant provided a number of documents and two proofs of evidence (described as witness statements), one of which was adopted by the appellant's daughter-in-law at the hearing and therefore may bear some weight to the extent that she is aware of her mother-in-law's intentions, the other being a document typed by somebody and unsigned by the appellant which can carry very little weight.
4. The crucial passage in the determination of Judge Jones is at paragraph 11 in which he says

“...Whilst I bear in mind the appellant's implied assertion in her witness statement, I still have to ask whether the preponderance of the evidence allows me to conclude that it is more probable than not that it is her state of mind or intention that she will depart the United Kingdom at or before the expiry of her visa period. In my judgment the overall evidence is equivocal on that issue and not sufficient to tip the balance of probabilities beyond 50% so that it could probably be said that it is more probable than not that the appellant holds the requisite intention.”
5. The oral evidence of the sponsor engaged to some extent with the documentary problems identified in the Entry Clearance Officer's refusal, and also revealed existence of a large extended family in India which had never previously been mentioned. The determination does not assess the sponsor's credibility but, given that the issue is the intention of the appellant, that is not, on the particular facts of this application, fatal to the determination.
6. For myself, I find the description of the evidence as equivocal, that is 50/50, to be generous to the appellant. It is difficult to understand the Immigration Judge's reasoning in paragraphs 10 and 11 and if the appellant's case were stronger, I might well have regarded his reasoning as sufficiently weak to amount to a material error of law.
7. However, given the very weak evidence which the appellant presented, I do not consider that in this particular case, even had the reasoning been more cogent, the conclusion would have been different. I do not set the determination aside and the dismissal of the appellant's appeal by the First-tier Tribunal is upheld.

**Conclusions**

The making of the decision of the First-tier Tribunal did not involve the making of a material error on a point of law. I do not set aside the decision.



Signed

Date

Upper Tribunal Judge Gleeson