



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

Appeal Numbers: IA/21780/2014
IA/21778/2014
IA/21777/2014

THE IMMIGRATION ACTS

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

**Determination Promulgated
On 10 September 2015**

Before

DEPUTY JUDGE DRABU CBE

Between

**MR MOHAMMAD REZA MASOUDIPOUR
MRS SOGHRA HEIDARI
MISS MOBINA MASOUDIPOUR
ANONYMITY DIRECTION NOT MADE**

Appellants

And

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr T D H Hudson, In-House Counsel for Elder Rahimi,
Solicitors.

For the Respondent: Mr E Tufan, Senior Presenting Officer

DECISION AND REASONS

1. The appellants are citizens of Iran. The first appellant is the husband of the second and the first and second appellants are the parents of the third. The first appellant first entered the United Kingdom on 21 June 2009 with conferred leave as a Work

Permit Holder from 25 March 2009 until 25 March 2014. On 2 May the respondent made a decision to refuse to vary his leave to remain and to remove by way of directions under Section 47 of the Immigration, Asylum and Nationality Act in respect of all three appellants. The second and the third appellants first entered the United Kingdom as the first appellant's dependents on 19 July 2011 with entry clearance giving them leave to remain until 25 March 2014. Reasons for her decision are given in the decision letter of the same date. The first appellant's date of birth is 31 August 1955 and the second appellant's is 20 March 1969. The third appellant's date of birth is 9 July 1996. At the date of the impugned decision the third appellant was a minor. Judge Aujla, a Judge of the First Tier Tribunal, heard their appeals against the respondent's decision. He dismissed the appeals for reasons given in his determination, which was promulgated on 28 January 2015.

2. The appellants sought and were granted permission to appeal to the Upper Tribunal by Judge PJM Hollingworth, a Judge of the First Tier Tribunal. His decision is dated 1 April 2015.
3. In granting permission Judge Hollingworth said, "The permission application refers to the Judge failing to mention or take into consideration the presence of two further children of the Appellant one of whom had been granted asylum and the other who had an asylum appeal pending in the Upper Tribunal. An arguable error of law arises in relation to the scope of the issues pertaining to whether or not there would be a breach of Article 8. The permission application was late. I am satisfied that good reasons exist for granting the application having considered the merits."
4. After hearing submissions from Mr Hudson and Mr Tufan I reserved my decision. Mr Hudson took me through the written grounds of appeal upon which permission had been granted - cross-referencing these with the determination. Mr Tufan argued that whilst there are factual errors in the determination, these are not sufficiently material to the decision, as evidence had not established "compelling circumstances" for the Judge to have engaged himself on merits of the claim under Article 8.
5. In my judgment the decision of Judge Aujla is unsustainable as it is based on incomplete facts, which are material to the decision. It is evident from the determination that the Judge has paid no regard to the presence and status of two other children of the first two appellants, one of whom has a refugee status. Also in stating that the third appellant had applied for asylum which had been refused, the Judge showed that he was confused in that it was not the third appellant who had sought asylum in the UK but

her sister Mona. The Judge also gave no consideration whatsoever to the third appellant being a minor at the date of decision and that her best interests required to be taken account of. I am satisfied that the grounds upon which permission was granted establish material error of law in the determination and therefore the determination is set aside. In the circumstances of this case it would be in the interests of justice for the appeals to be heard afresh by a Judge of the First tier Tribunal other than Judge Aujla and I so direct.

K Drabu CBE
Deputy Judge of the Upper Tribunal

Date: 7 September 2015