



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

Appeal Number: AA/06291/2015

**THE IMMIGRATION ACTS**

**Heard at Glasgow  
on 26<sup>th</sup> April 2016**

**Decision & Reasons Promulgated  
on 28<sup>th</sup> April 2016**

**Before**

**UPPER TRIBUNAL JUDGE MACLEMAN**

**Between**

**ABDELLATIF HABIBI**

Appellant

**and**

**THE SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

For the Appellant: Mr K H Forrest, Advocate; Livingstone Brown, Solicitors

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

**DETERMINATION AND REASONS**

1. The appellant is a citizen of Morocco, born on [ ] 1984. He has not sought an anonymity order, and none has been made.
2. The appellant made an asylum claim on 12<sup>th</sup> March 2015, which the respondent refused on 2<sup>nd</sup> April 2015.

3. The appellant appealed to the First-tier Tribunal. His appeal was firstly dealt with through the “fast track” procedure, and was dismissed in terms of a decision and reasons by First-tier Tribunal Judge Raymond, promulgated on 20<sup>th</sup> April 2015.
4. On 25<sup>th</sup> September 2015 the President of the First-tier Tribunal set aside that decision and directed that the appeal be re-determined by another judge.
5. First-tier Tribunal Judge Handley dismissed the appeal by decision and reasons promulgated on 26<sup>th</sup> January 2016.
6. Before Judge Handley the appellant was neither present nor represented, which may have been due to a procedural mishap. It appears that the respondent’s Presenting Officer invited the judge to apply *Devaseelan* [2002] UKAIT 00702 and to take the decision by Judge Raymond as the starting point.
7. Mr Matthews fairly and correctly conceded that Judge Handley fell into error by taking the earlier decision as the starting point. The decision of Judge Raymond had been set aside and the case required to be decided entirely afresh. Under those circumstances, *Devaseelan* was not an appropriate reference.
8. The decision by Judge Handley is **set aside**. No findings of the First-tier Tribunal, at any previous date, are to stand. Those decisions stand only as a record of what was said at the time. Under section 12(2)(b)(i) of the 2007 Act and Practice Statement 7.2 the nature and extent of judicial fact finding necessary for the decision to be re-made is such that it is appropriate to **remit the case to the First-tier Tribunal**. The member(s) of the First-tier Tribunal chosen to be re-consider the case are not to include Judge Raymond or Judge Handley.



27 April 2016  
Upper Tribunal Judge Macleman