



IAC-FH-CK-V1

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

Appeal Number: AA/07359/2015

THE IMMIGRATION ACTS

Heard at Field House

**On 18 January 2016
Extempore**

**Decision & Reasons
Promulgated
On 8 February 2016**

Before

UPPER TRIBUNAL JUDGE RINTOUL

Between

**MR DINESH RATNASINGHAM
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Junior, Counsel instructed by Lawland Solicitors

For the Respondent: Ms Willocks-Briscoe, Home Office Presenting Officer

DECISION AND REASONS

1. The appellant appeals with permission against the determination of First-tier Judge Adio promulgated on 22 October 2015 in which he dismissed the appellant's appeal against the decision the respondent made on 16 April 2015 to refuse his claim for asylum and to remove him from the United Kingdom.

2. Judge Adio did not accept the appellant's account and, materially in this case, did not accept that there was a warrant out for the applicant's arrest in Sri Lanka. The appellant's case is set out in detail in the decision of the respondent and also in the decision of Judge Adio. There is no challenge to the recording of the claim in either case and there is no purpose served by setting out in detail. Suffice it to say that the applicant's case that he is a risk on return to Sri Lanka on the basis that there is an arrest warrant out on the basis that he had or was believed to have assisted the LTTE.
3. When the matter came before Judge Adio an application was made on the basis that as set out at paragraph 8 the appellant was about to receive documents from a lawyer in Colombo and that these were to be received within three weeks. These documents were said to relate to the questioning of the appellant and the delay is put down to the fact that there were elections in Sri Lanka. That application was refused by Judge Adio for reasons given in paragraph 10 of his decision. Judge Adio went on to find that the applicant was not credible and that parts of his claim were untrue and fabricated.
4. The appellant sought permission to appeal to the First-tier Tribunal which was granted on 16 November 2015 by First-tier Tribunal Judge Frankish. In essence the grounds challenge the decision to refuse an adjournment on the basis that this was procedurally unfair and denied the appellant an opportunity to put his claim forward, second that the existence of the warrant was not merely a peripheral issue but was of significant importance to the case, further that the judge erred in that he had on the basis of the absence of the arrest warrant considered that this aspect of the case had not been properly put forward finding that these aspects of the case had been fabricated. These findings are primarily dealt with at paragraph 16 of the decision.
5. When the matter came before me I heard submissions from Mr Junior on behalf of the applicant. He submitted that the primary ground of challenge was the failure to adjourn the matter and accepted that the other grounds of appeal flow from the failure to adjourn and the consequent inability of the appellant to adduce evidence in his support. Mr Junior did, however, accept that he had no translation of the documents [which] were now said to have been received (and for which the adjournment had been sought) and that accordingly this put him in significant difficulty. The explanation given is that although the documents have been received they have not been translated as the appellant did not wish to incur further costs unless and until his appeal in the Upper Tribunal had been granted.
6. I do not consider that this is a sufficient explanation to explain the failure to adduce documents which on 8 October 2015 were said to be likely to be received within three weeks. The reality is that not even the untranslated originals were put before me and there is thus no basis for showing that the documents or warrants in fact exist.

7. In considering at the reasons given by the judge for refusing the adjournment which are set out at paragraphs 8 to 10 of his decision, I am satisfied that the judge decided to refuse the application for reasons which were fair, reasonable and in the interests of justice. The judge noted that the refusal letter had been issued in April 2015. Nothing had since been presented and the applicant had applied for asylum in November 2014 and had stated in his interview that the documents were available and he noted: "I am not satisfied that if I grant an adjournment the position will be any different on the next hearing date." It was, I consider, open to the judge to consider that the appellant had had sufficient time to provide the documents. Thus, accordingly in all the circumstances of this case including the duty to deal with the case fairly and justly, that the judge did act properly and fairly in refusing the adjournment application.
8. In the absence of the arrest warrant I consider that the judge was entitled to reach the adverse conclusions as to the appellant's claim as set out in paragraphs 15 to 16 of the decision. No challenge other than failure to adjourn in the absence of the arrest warrants (which are still not available in a proper form) has been put forward in any meaningful way to suggest that the decision was otherwise unsafe. Viewing the material before me in light of the grounds I consider that the reasons given by Judge Adio for finding that the applicant's claims were untrue and that he did not meet the requirements of the Refugee Convention are sustainable, properly reasoned and lawful.
9. In the circumstances, I am not satisfied that the decision of the First-tier Tribunal involved the making of an error of law.

SUMMARY OF CONCLUSIONS

1. The decision of the First-tier Tribunal did not involve the making of an error of law and I uphold it.

No anonymity direction is made.

Signed

Date: 27 January 2016

Upper Tribunal Judge Rintoul