



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

Appeal Number: IA/32413/2014

THE IMMIGRATION ACTS

Heard at Field House

On 12th May 2016

**Decision & Reasons
Promulgated
On 7th June 2016**

Before

UPPER TRIBUNAL JUDGE MARTIN

Between

**MR IJIAS A M A SEYNULABDEEN
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: No appearance

For the Respondent: Miss K Pal, Home Office Presenting Officer

DECISION AND REASONS

1. This is an application to the Upper Tribunal by the Appellant in relation to a Decision and Reasons of the First-tier Tribunal, Judge E M Simpson,

promulgated on 9th October 2015, following a hearing at Taylor House on 20th July 2015. The appeal before the First-tier Tribunal was in relation to a removal decision under Section 10 of the 1999 Immigration and Asylum Act.

2. The matter was listed before Judge Simpson to be dealt with as a preliminary issue on jurisdiction, it being argued by the Secretary of State that there was no in country right of appeal. The judge initially did not have a Presenting Officer but then one was found to assist her.
3. In her Findings, Conclusions and Reasons starting at paragraph 18 of the decision and going on to paragraph 28 Judge Simpson found that the Appellant had no in- country right of appeal on the basis that he would only have had an in country right of appeal had he made a prior human rights claim which he had not done and that it was not possible to acquire an in-country right of appeal by pleading human rights in the grounds of appeal which he had not done. She therefore declined jurisdiction and dismissed the appeal on the basis of a lack of jurisdiction.
4. The Appellant sought permission to appeal on the grounds that he did have a full in-country right of appeal, that the Tribunal erred in adjourning an earlier hearing to allow evidence of deception to be obtained by the Secretary of State and essentially it was wrong for the First-tier Tribunal to find that the appeal was invalid because it should be brought out of country. There is no merit in any of those grounds. It was quite clearly the case that he only had an out of country right of appeal and therefore the judge had no jurisdiction.
5. Before me there is no attendance by or on behalf of the Appellant and I am informed by Miss Pal that according to CID the Appellant left on a voluntary basis to Sri Lanka on 29th March 2016 which may well explain why he is not in front of me. If in truth he has left the country then his appeal to the Tribunal is abandoned by operation of law. If he has not left the country he nevertheless has not appeared in front of me to prosecute his application and as it is his application it fails for that reason.

Notice of Decision

6. Therefore if it is not abandoned the appeal to the Upper Tribunal is dismissed.
7. No anonymity direction is made.

Signed

Date 7th June 2016

Upper Tribunal Judge Martin