



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

Appeal Numbers: EA/03011/2015

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 13 March 2018**

**Decision & Reasons  
Promulgated  
On 20 April 2018**

**Before**

**UPPER TRIBUNAL JUDGE PERKINS**

**Between**

**MOHAMMED RASHID MOHAMMED JAHUFER  
(ANONYMITY DIRECTION NOT MADE)**

Appellant

**and**

**SECRETARY OF STATE FOR THE HOME DEPARTMENT**

Respondent

**Representation:**

For the Appellant: Mr D Balroop, counsel instructed by PGA Sols

For the Respondent: Ms J Isherwood, Home Office Presenting Officer

**DECISION AND REASONS**

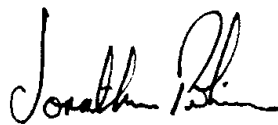
1. This is an appeal by a citizen of Sri Lanka against the decision of the First-tier Tribunal dismissing his appeal against the decision of the Secretary of State refusing him an EEA Residence Card. The appeal was heard with that of another appellant whose appeal was allowed but this appeal was dismissed because the judge believed that he did not have jurisdiction to entertain the appeal. That was an entirely sensible view to take at the time but we now know it was a wrong view because of the decision of the Court of Appeal in **Khan v SSHD [2017] EWCA Civ 1755**.

2. Very often in cases of this kind the proper thing to do is simply to overrule the decision of the First-tier Tribunal, set it aside and order the case be heard again in the First-tier.
3. However on this occasion there is a substantial bundle of evidence indicating at a superficial reading that the application of the appeal ought to succeed on its merits.
4. Ms Isherwood had been able to consider the documentary evidence provided including evidence that the appellant is in fact now lawfully married. He relies on an extract of the register of marriages from the Famous Blacksmiths Shop in Gretna Green which, although novel in my experience, is an entirely legitimate place to marry and it is plainly a lawful certificate. The appellant is clearly a married man.
5. Ms Isherwood recognised that the effective consequence of this is there was no sensible basis for resisting the appeal and I therefore set aside the decision of the First-tier Tribunal because of error of law and I substitute a decision allowing the appeal.

Decision

This appeal is allowed.

Signed



Jonathan Perkins, Upper Tribunal Judge

Dated: 20 April 2018