



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

Appeal Number: HU/05661/2015

THE IMMIGRATION ACTS

**Heard at Field House
On 30 November 2017**

**Decision & Reasons
Promulgated
On 16 January 2018**

Before

**THE HONOURABLE LORD MATTHEWS
SITTING AS AN UPPER TRIBUNAL JUDGE
DEPUTY UPPER TRIBUNAL JUDGE MCCLURE**

Between

**MISS SAI LAXMI RAI
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE ENTRY CLEARANCE OFFICER

Respondent

Representation:

For the Appellant: Mr R Jesuram (Counsel) instructed by Everest Law Solicitors

For the Respondent: Mr P Duffy, Senior Home Office Presenting Officer

DECISION AND REASONS

1. This is the appeal of Miss Sai Laxmi Rai, the daughter of a former Gurkha soldier, and a citizen of Nepal, born on 27 December 1985. She applied for settlement in the United Kingdom in July 2015 and that application was refused by the Entry Clearance Officer on 11 August of that year. She appealed and that appeal was dealt with by Judge Geraint Jones Q.C. in the

First-tier Tribunal on 5 January 2017; his determination being promulgated on 9 January 2017.

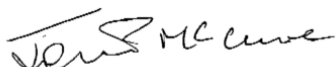
2. The Judge refused the appellant's appeal and a number of grounds of appeal were submitted challenging that determination. For instance, it is said in the grounds of appeal that the Judge misdirected himself as to what the proper threshold for family life was and he failed properly to deal with the jurisprudence in Ghising and Gurung. In addition we have the benefit now of the case of Jitendra Rai, which in fairness to him was not promulgated when he dealt with the matter. That case seems to us to deal with matters which may be thought to go to some extent to the root of the issue in this case. The Judge found that there was a modest degree of family life but it is difficult to know just what that means.
3. We do not think it is necessary for us to go through in detail what the various issues were with this determination. Suffice it to say that Mr Duffy, for the respondent, and Mr Jesuram, who appeared for the appellant, both agreed that there were a number of difficulties arising with this determination. We are in agreement with that. We find that it is unsustainable for the reasons set out in the grounds of appeal which we do not rehearse here. It was agreed that in view of the fact there really has been no proper consideration of this appeal at all that it should be remitted to the First-tier Tribunal before a different Judge and that it be reheard.
4. We understand that there is some medical evidence in relation to the sponsor's condition which was not before the First-tier Tribunal. Some reference was made to his health in the papers before that Tribunal but not in any detail. That is a matter which can no doubt be addressed in due course before the First-tier Tribunal.
5. We are grateful to Mr Duffy for his fair approach to this appeal. We set aside the decision and remit it to the First-tier Tribunal with no findings of fact maintained.

Notice of Decision

The appeal against the determination of the First-tier Tribunal is allowed. The case is remitted to that Tribunal to be heard by a Judge other than Judge Jones QC

No anonymity direction is made.

Signed



Deputy Upper Tribunal Judge John P McClure 15 January 2018

& LORD MATTHEWS

Sitting as an Upper Tribunal Judge
(Immigration and Asylum Chamber)