



IAC-AH-RG-V1

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

Appeal Number: AA/02819/2014

**THE IMMIGRATION ACTS**

**Heard at Field House**

**On 1 October 2014**

**Determination**

**Promulgated**

**On 27 October 2014**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE SHAERF**

**Between**

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

Appellant

**and**

**KAG  
(ANONYMITY ORDER MADE)**

Respondent

**Representation:**

For the Appellant: Mr S Kandola of the Special Appeal Team

For the Respondent: Mr O Oke of Counsel instructed by Malik Law Solicitors

**DETERMINATION AND REASONS**

**The Respondent**

1. The Respondent to whom I shall refer as the Applicant is a citizen of Pakistan born in 1984. He is a Protestant Christian. He has spent very little of his life in Pakistan, being the child of two international health workers and who has completed his tertiary education and obtained his

professional qualification as an accountant in the United Kingdom. His sister has indefinite leave to remain in the United Kingdom.

2. In late 2012 the Applicant with his father returned to Pakistan. Difficulties had arisen about a family owned property which had been rented out and in respect of which the tenant had prepared a fraudulent agreement for sale. His father had obtained a court order for possession and the intention was for it to be enforced. The tenant assaulted the Applicant and his father who lodged a complaint with the police. The tenant filed a counter case in early January 2014 and also made a First Information Report was lodged alleging the Applicant had committed blasphemy.
3. The Applicant and his father both left Pakistan in fear for their safety and the Applicant returned to the United Kingdom where he had been studying. On or shortly after his return on 9 January 2013 the Applicant sought international protection because he feared that on return to Pakistan he would be persecuted by reason of his religion. On 15 April 2014 the Appellant (the SSHD) refused the Applicant's claim and decided to remove him to Pakistan by way of directions under Section 47 of the Immigration, Asylum and Nationality Act 2006.

### **The SSHD's Decision**

4. The SSHD accepted the Applicant's account of problems with a family property in Pakistan which had been rented out and which had led to litigation. However the SSHD rejected the Applicant's claim to be at risk for a Refugee Convention reason because the court documents relating to the blasphemy charge were such that they could easily have been fraudulently obtained and the letters from two pastors lodged in support of his claim were considered to be based on hearsay evidence. Further, if the Applicant was the subject of criminal charges as claimed he would not have been able freely to leave Pakistan.

### **The First-tier Tribunal's Determination**

5. By a determination promulgated on 31 July 2014 Judge of the First-tier Tribunal Thanki found the Appellant credible and accepted that the court documentation from Pakistan was genuine. He went on to allow the appeal on asylum grounds.
6. On 18 August 2014 Judge of the First-tier Tribunal Shimmin granted the SSHD permission to appeal because it was arguable the Judge had failed to provide adequate reasons why the supporting letters from two pastors showed that there was an outstanding criminal case against the Applicant. The Applicant did not lodge any response pursuant to Procedure Rule 24 but did prepare a fresh bundle including written submissions of 23 September 2014.

### **The Upper Tribunal Hearing**

7. The Applicant attended the hearing. For the SSHD Mr Kandola submitted that the essence of the SSHD's grounds was that the Judge had failed adequately to address the issue of the validity of the court proceedings against the Applicant in the context of the jurisprudence about documents contained in *Tanveer Ahmed\* [2002] UKIAT 00439*. At paragraph 31 of his determination the Judge had noted that the authenticity of the court documents was an issue but had failed to take into account the background evidence that such documents were readily available in Pakistan. In addition, the Appellant's account disclosed an inconsistency in that he had said he was able to leave Pakistan without difficulty while at the same time claimed there was an outstanding criminal case against him.
8. The Judge had failed adequately to address the letters from the pastors. They were based on information given to them by the Applicant and one of them did not mention the harassment to which the Applicant said he had been subjected.
9. The Judge had erred in failing to make a global assessment of the evidence before him and had not given adequate reasons to support his conclusions.
10. For the Applicant, Mr Oke urged me to uphold the determination because it was not irrational and did not contain any error of law. The Judge had taken into account all of the evidence including the background evidence which was before him and had made a global assessment as stated at paragraph 13 of his determination. The Judge was aware of the claim recorded at paragraph 21 that the Applicant's uncle continued to be harassed. The background evidence had been well-referenced in the course of submissions made to the Judge and I noted this was confirmed in the Judge's Record of Proceedings. The Judge had not made an adverse credibility finding on any point of the Applicant's evidence and the submissions recorded the SSHD's challenge to the court documents' authenticity on the basis that if they were authentic the Applicant would not have been able to leave Pakistan. The oral submissions included that the background evidence did not mention that a blasphemy charge by itself would amount to a bar on exit.
11. Mr Oke submitted that the Judge's conclusion to accept the letters from the pastors should not be considered in isolation but in the light of what the Judge had found at paragraphs 58-61 of his determination and his self-direction at paragraph 13 to consider the totality of the evidence, including objective evidence and submissions. The Judge had addressed the details of the background evidence at paragraph 63 of his determination. The accumulation of reasons throughout the determination was more than adequate reasoning to support the Judge's conclusions and there was no error of law in the determination which should be upheld.
12. Mr Kandola for the SSHD then submitted that there was no specific positive credibility finding by the Judge in favour of the Appellant. I

referred him to paragraphs 58 and 59 of the determination and Mr Kandola went on to renew the challenge to the court documents and to submit that the Applicant was not at real risk on return to Pakistan.

### **Findings and Consideration**

13. I accept that there is no single statement in the determination that the Judge found the Applicant to be a credible witness. However, this is hardly necessary in view of the words and tenor used at paragraph 58 that the Applicant was a modest witness who gave evidence in a measured way and did not exaggerate his claimed difficulties in Pakistan. To this must be added the acceptance by the SSHD of the Applicant's claims about the land dispute over his father's property. The Judge specifically considered the hearsay basis of the evidence from the pastors, particularly the one who is the Applicant's uncle: see paragraph 60. He referred to background evidence about the position of the Christian community in Pakistan. He noted the Applicant had brought forward his return to the United Kingdom from 12 January to 9 January, being the day immediately after he had been required to attend a court and considered that his failure to attend court on the day before he left may not have been noted in the security systems available to the authorities at the airport: see paragraph 65.
14. For these reasons I find that the First-tier Tribunal's determination did not contain an error of law and therefore it shall stand.

### **Anonymity**

The Judge made an anonymity direction and there was no suggestion that it should be removed. So I now make an anonymity order.

### **DECISION**

**The determination of the First-tier Tribunal did not contain an error of law and shall stand.**

Signed/Official Crest  
2014

Date 24. x.

Designated Judge Shaerf  
A Deputy Judge of the Upper Tribunal