



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

Appeal Number: OA/07151/2014

THE IMMIGRATION ACTS

**Heard at Field House
On 21st July 2015**

**Decision & Reasons Promulgated
On 21st July 2015**

Before

DEPUTY UPPER TRIBUNAL JUDGE MCCLURE

Between

The Entry Clearance Officer - Islamabad

Appellant

and

**MR SHAHZEEB SALEEM
[NO ANONYMITY DIRECTION MADE]**

Respondent

Representation:

For the Appellant: Mr Nasim, Counsel

For the Respondent: Mr Nath, Senior Home Office Presenting Officer

DETERMINATION AND REASONS

1. The respondent, Mr Shahzeeb Saleem date of birth the 9th January 1984, is a citizen of Pakistan. Having considered all the circumstances I do not make an anonymity direction.
2. The appellant in the present proceedings is the ECO - Islamabad. The respondent had applied for entry clearance to the United Kingdom as the spouse of a British citizen under the Immigration Rules. By decision taken on 9 June 2014 the ECO refused that application. There had been an EC Manager's review of that decision and the reason given for maintaining

the refusal was that the UK Decree (absolute) divorce certificate submitted with the application did not contain the stamp of the UK Family Court to authenticate the decree and to confirm that it was genuine. In the light of that it was not accepted that the sponsoring wife was free to marry is therefore not accepted that the respondent and the sponsoring wife had entered into a valid marriage.

3. The respondent appealed the decision to refuse entry clearance as a spouse to the First-tier Tribunal and the appeal was heard by First-tier Tribunal Judge Hopkins on 19 January 2015. By decision promulgated on 29 January 2015 Judge Hopkins allowed the appeal under the Immigration Rules.
4. This is an appeal by the ECO against the decision Judge Hopkins.
5. The sole issue in the appeal relates to the validity of the Divorce Decree from the UK Family Court produced by the sponsoring wife as evidence of the fact that she had been divorced and that she was accordingly free to marry the appellant on 29 March 2013.
6. Whilst a decree of divorce from the Family Court in the United Kingdom had been submitted with the application, it was being asserted by the ECO that the divorce decree produced was not in proper form as there was no authenticating stamp. Judge Hopkins looked at the documentation and was satisfied that there was an authenticating stamp, although it was faint [see paragraph 13 of the Decision].
7. Further the judge has carefully set out the circumstances in which properly stamped and authenticated documents were produced at the hearing.
8. The judge has considered the validity of the decree of divorce was satisfied that there was a stamp on the original document. He notes the nature of the documentation submitted to the ECO. The document was certified as genuine by solicitors. A further original Decree of Divorce had been produced before Judge Hopkins.
9. Before me it was accepted that there was a genuine document and that the sponsoring wife was therefore free to marry the appellant at the time that they entered into the marriage.
10. The judge clearly considered the validity of the documentation submitted and was satisfied that a valid document had been submitted to substantiate that the sponsoring wife was free to marry at the material time. Albeit that it was somewhat faint there was a stamp on the decree produced.
11. The grounds seek to argue that under Appendix FM –SE paragraph 23 it was necessary for the original decree absolute to be produced with the application. As set out the judge considered that issue and found that the document did have the required stamps and was therefore a valid authenticated decree.

12. Even if the document was deficient in the manner described there is a discretion under Appendix FM—SE – paragraphs C and D where documents are not submitted in the proper format. It would have been open to be appellant to contact the respondent requiring the respondent to produce a document in proper form. No attempt to do so was made or apparently considered. It is arguable that even at the height of the appellant's case the appeal would be allowed to the extent that it was remitted back to the appellant for consideration of the exercise of the discretion. Given that a valid unauthenticated document has been produced that appears to be unnecessary in the circumstances.
13. However the judge did consider whether a proper and authenticated document had been submitted. The judge was satisfied that the documents submitted did have the proper stamp therefore a valid document had been submitted as required by the rules. The judge has clearly considered the evidence was entitled to come to the conclusion that he did. In those circumstances there is no material error of law in the decision.
14. There is a no material error of law in the determination. I uphold the decision to allow this appeal under the immigration rules.

Signed

Date

Deputy Upper Tribunal Judge McClure