



**Upper Tribunal
(Immigration and Asylum Chamber)**
VA/15603/2013

Appeal Number

THE IMMIGRATION ACTS

**Heard at Field House
On 25th September 2015**

**Decision and Reasons Promulgated
On 16th October 2015**

Before

DEPUTY UPPER TRIBUNAL JUDGE PARKES

Between

**HARBHAJAN KAUR
(ANONYMITY DIRECTION NOT MADE)**

Appellant

And

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr R Sharma (Counsel, instructed by H & M Solicitors)

For the Respondent: Mr S Whitwell (Home Office Presenting Officer)

DETERMINATION AND REASONS

1. The Appellant's application (the second application) for a visit visa was refused. She had previously applied to visit the UK (the first application) but that application had been refused on the basis that a false document had been submitted in the form of false KCB bank statement. That decision on the first application had not been appealed. The second application was refused under paragraph 320(7B) of the Immigration Rules on the basis that the Appellant had used deception in a previous application.
2. At the hearing before the First-tier Tribunal at Hatton Cross the Home Office applied for an adjournment to obtain a document verification report (DVR) which was refused and the appeal was heard. In paragraph 17 of the decision the Judge recorded the Sponsor saying that the agent had used false documents in the first application and in paragraph 20 they had not put in any false documents.

3. The Judge's findings included that the Appellant had used an agent in the first application. The Judge found that a false bank statement from KCB probably had been submitted with the first application. Given the evidence that the Sponsor's brother did not have such an account it followed that the statement submitted was false. The Sponsor's evidence about subsequent events was consistent with a false statement having been submitted. She also found that his evidence was that a false document was probably submitted with the application.
4. The Appellant sought permission to appeal to the Upper Tribunal, this was refused by the First-tier Tribunal. A renewed application to the Upper Tribunal was made. It was submitted that there was no evidence that a false statement from KCB had been submitted. It was also submitted that the oral evidence of the Sponsor had been mis-recorded which was to the effect that if such a statement had been submitted then it would have been false.
5. Permission was granted by the Upper Tribunal citing the case of SD paragraph 320(11): forgery) India [2010] UKUT 276 there had been no judicial determination of the issue whether a document previously submitted had been forged and the difficulty as to whether there was such an admission in the evidence.
6. The issue in this appeal is narrow although the consequences for the Appellant will be lengthy and significant which means that is more important than might at first appear. It is accepted that if a document purportedly from KCB was submitted with the first application that document would have been false.
7. The evidence before the Judge was that the Sponsor's brother did not have such a bank account and at the very least the Sponsor accepted that such a document would have been false. That would have been enough to satisfy the requirement for cogent evidence to show that a document was false. The narrow issue is whether such a document was submitted in support of the first application.
8. The evidence for that did not come from either a copy of the document itself or from a DVR. The Judge was clearly alert to the significance of the issue and had refused the Home Office application for an adjournment to obtain supporting documentation and that refusal remains unchallenged. There is no complaint from the Home Office about the fairness of that decision and it is not subject of a cross-appeal.
9. The evidence that the Judge relied on to find that the KCB bank statement had been submitted in the first application was from the ECO's statements in the Refusal Notice to that effect, she also relied on the evidence of events after the first application had been refused including the evasive behaviour of the agent and his subsequent disappearance and the first decision had not been appealed.
10. If the disputed evidence of the Sponsor is excluded, i.e. whether he accepted that the documents had been submitted, it is clear that he accepted that *if* such documents had been submitted they would have been false. The evidence relied on by the Judge to find that the KCB documents had been submitted was set out, the findings properly reasoned and supported.
11. Read properly I am satisfied that notwithstanding the absence of the KCB bank statements themselves or a supporting DVR the Judge was entitled to find that the KCB had been submitted with the first application, it followed that those statements were false. The Judge had in mind the burden and standard and approached the issue with due caution. It follows that the decision was open to the Judge on sustainable reasons that had been given.
12. I appreciate that this finding has consequences for the ability of the Appellant to renew an application for a visit visa. However, this decision is not a further bite at the cherry but a review of the lawfulness

of the First-tier Tribunal decision which requires a dispassionate analysis of what took place and what was decided.

CONCLUSIONS

The making of the decision of the First-tier Tribunal did not involve the making of an error on a point of law.

I do not set aside the decision.

Anonymity

The First-tier Tribunal did not make an order pursuant to rule 45(4)(i) of the Asylum and Immigration Tribunal (Procedure) Rules 2005 and I make no order.

Fee Award

In dismissing this appeal I make no fee award.

Signed:

Deputy Judge of the Upper Tribunal Parkes (IAC)

Dated: 16th October 2015