



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

Appeal Number: AA/00615/2015

THE IMMIGRATION ACTS

**Heard at Manchester IAC
On 1st April 2016**

**Decision and Reasons Promulgated
On 11th April 2016**

Before

UPPER TRIBUNAL JUDGE COKER

Between

**ALI IBRAHIM DHABAREY
(no anonymity order made)**

Appellant

And

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr J Nicholson, counsel, instructed by Broudie Jackson & Canter
For the Respondent: Mr G Harrison, Senior Home Office Presenting Officer

DETERMINATION AND REASONS

1. The appellant was granted permission to appeal on the grounds it was arguable that the judge erred in law in adopting the role of inquisitor; failed to give adequate reasons for his findings on the appellant's clan membership and that the judge's findings on relocation to Mogadishu were unreasoned and speculative.

2. Although the respondent had filed a Rule 24 notice this did not address the main challenge to the judge's decision with regard to the clan membership and lack of reasoning save to assert, in essence that the judge's reasoning was adequate.
3. It is most unfortunate that although the judge set out the italicised words from *MOJ & others (Return to Mogadishu) Somalia CG* [2014] UKUT 00442 (IAC), he failed to address save in general terms the matters raised. Given the findings made which appear to be either unreasoned or unsupported by evidence and the failure to make findings on relevant matters this decision is plainly inadequate and vitiated by significant errors of law.
4. I set aside the decision to be remade.
5. When I have set aside a decision of the First-tier Tribunal, s.12 (2) of the TCEA 2007 requires me to remit the case to the First-tier with directions or remake it for ourselves. Where the error of law is such as in this case and the facts are disputed or unclear I conclude that the decision should be remitted to a First-tier judge to determine the appeal.
6. If in so far as the appellant seeks to file additional documentary evidence, no doubt the appellant will make the appropriate application to the First-tier Tribunal.

Conclusions:

The making of the decision of the First-tier Tribunal did involve the making of an error on a point of law.

I set aside the decision and remit the appeal to be heard afresh by a First-tier Tribunal judge (not judge D Dickinson), no findings of fact preserved.



Date 1st April 2016

Upper Tribunal Judge Coker