



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

Appeal Number: AA/09847/2015

THE IMMIGRATION ACTS

**Heard at Field House
On 21 August 2017**

**Decision & Reasons Promulgated
On 22 August 2017**

Before

Upper Tribunal Judge Southern

Between

[S S]

Appellant

and

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms S. Jegarajah, counsel instructed by Greater London,
Solicitors

For the Respondent: Ms Z. Ahmad, Senior Home Office Presenting Officer

DECISION

1. As it is common ground and agreed between the parties, correctly, that First-tier Tribunal Judge Parkes made an error of law material to the outcome of the appeal, I need only briefly identify the nature of that error and make clear the scope of the hearing that must, in the light of that, follow.

2. Although Judge Parkes set out a brief summary of the appellant's protection claim at paragraph 11 of his judgment, he did not engage with that claim, at all, and made no finding of fact as to whether or not he accepted to be true the appellant's account of her mistreatment at the hands of the Sri Lankan authorities. Nor did the judge conduct any assessment of the expert evidence of Dr Arnold which, in Ms Jegarajah's submission, provided strong support for the claim. It is plain that the judge made other errors of law, as identified by the grounds upon which permission to appeal was sought and granted. But the error identified above is in itself sufficient to establish that the decision of Judge Parkes cannot stand and must be set aside in its entirety and so I need say nothing more about the other grounds of challenge.

3. I do, though, make this observation. Judge Parkes appeared to attach significance to the fact that the appellant spent some time living in India. But she does not hold Indian nationality and, if the appellant is to be removed from the United Kingdom, it appears that Sri Lanka is the only lawful destination of removal. Therefore, in considering whether she is or is not a refugee, the focus must be upon whether she faces on return to Sri Lanka a well-founded fear of persecution.

Summary of decision:

4. First-tier Tribunal Judge Parkes made a material error of law, and his decision to dismiss the appeal is set aside. No finding of fact is to be preserved.

5. The appeal to the Upper Tribunal is allowed to the extent that the determination of First-tier Tribunal Judge Parkes is set aside in its entirety and the appeal is remitted to the First-tier Tribunal to be determined afresh.

Signed



Upper Tribunal Judge Southern

Date: 21 August 2017