



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

Appeal Number: EA/02358/2016

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 21 February 2018**

**Decision & Reasons Promulgated  
On 26 April 2018**

**Before**

**UPPER TRIBUNAL JUDGE GLEESON**

**Between**

**OLAYINKA WASI GABADAMOSI  
[NO ANONYMITY ORDER]**

Appellant

**and**

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

Respondent

Representation:

For the appellant: Mr Olawale Adisa, solicitor with Oasis Solicitors

For the respondent: Mr Stephen Kotas, a Senior Home Office Presenting Officer

**DECISION AND REASONS**

**Decision and reasons**

1. The appellant appeals with permission against the decision of the First-tier Tribunal dismissing his appeal against the decision of the respondent to refuse him a permanent right of residence following 5 years in the United Kingdom, pursuant to the Immigration (European Economic Area) Regulations 2006 (as amended), as the extended family member of an EEA national exercising Treaty rights here.

2. The appellant is a citizen of Nigeria.
3. The appeal was struck out by the First-tier Tribunal on *Sala/Khan* grounds for want of jurisdiction.
4. Following the decision of the Supreme Court in *SM (Algeria) v Entry Clearance Officer, UK Visa Section* [2018] UKSC 9 on 14 February 2018, the respondent accepts that it was legally erroneous to treat the appellant as having no right of appeal to the First-tier Tribunal.
5. The appeal of the appellant is therefore allowed and the First-tier Tribunal decision set aside.
6. The appeal will be heard substantively, and the decision remade, in the First-tier Tribunal.

## **DECISION**

7. For the foregoing reasons, my decision is as follows:  
The making of the previous decision involved the making of an error on a point of law.  
I set aside the previous decision. The decision in this appeal will be remade in the First-tier Tribunal on a date to be fixed.

Date: 23 April 2018

Signed **Judith AJC Gleeson**  
Upper Tribunal Judge

Gleeson