



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: HU/27159/2016

THE IMMIGRATION ACTS

Heard at Field House
On 2 August 2018

Decision & Reasons Promulgated
On 11 September 2018

Before

DEPUTY UPPER TRIBUNAL JUDGE DAVEY

Between

ENTRY CLEARANCE OFFICER - PRETORIA

and

MRS NIMCO DEEQ AYAH
(ANONYMITY DIRECTION NOT MADE)

Appellant

Respondent

Representation:

For the Appellant: Mr A McVeety, Senior Presenting Officer

For the Respondent: Mr C Yacoobali, Legal Representative from North Kensington
Legal Centre

DECISION AND REASONS

1. In this decision the Appellant is referred to as “the Entry Clearance Officer” and the Respondent is referred to as “the Claimant”.

2. The Claimant a national of Somalia date of birth 25 August 1980 appealed against the ECO's decision dated 2 April 2016 to refuse entry clearance for a visit visa for the purposes of the Claimant visiting her husband and two sons in the UK. Because of the Appellate provisions the appeal proceeded as a human rights based appeal and part of the argument before the First-tier Tribunal Judge was that in fact the intentions of the Claimant were genuine in terms of coming to the UK and leaving at the conclusion of her visit. The matter before First-tier Tribunal Judge Talbot was argued with representation from both sides essentially supporting or opposing the ECO's decision.
3. The fact of the matter was there had been an earlier settlement application made by the Claimant which had failed and her appeal had been dismissed as long ago as September 2014. It is clear that the ECO did not have confidence that the Claimant would leave at the end of her visit to the UK and rather as do the grounds suspected that this was simply a backdoor way of gaining entry to the UK from whence a settlement application of some sort or another would be made.
4. The Judge took these matters entirely into account and addressed them with sufficient and adequate reasons and concluded that:-

“...the Appellant and Sponsor see this as a chance for the Appellant to see her husband and children for a temporary period of a few months and are reconciled to the fact she will have to go back prior to making a settlement application after the necessary arrangements for this had been made. The fact that the Appellant has left her young daughter behind in Somalia also supports this contention. I conclude that the requirements of the Immigration Rules in relation to the visit were met and that she genuinely intends this to be only a visit for a limited period.”

As a fact the Claimant has not left Somalia and still is with her daughter but the effect of the application was that she would leave her daughter behind in Somalia before returning to her.

5. The Judge went on to consider the issue of proportionality albeit with some brevity but it is clear that what he had in mind was that although the Claimant and Sponsor had chosen to separate in the way that has occurred the fact is that separation of that kind does not exclude the possibility that one can make a visit as and when able subject to appropriate consent. Nor is it in effect by separation an abandonment of the parental relationship between the adults and their children.
6. For these reasons I am satisfied the Judge gave sufficient and adequate reasons addressing the proportionality of the decision.
7. No anonymity order was made nor has one been requested and therefore no anonymity order is required.

DECISION

The appeal of the Entry Clearance Officer is dismissed.

The Original Tribunal's decision stands.

Signed

Date 20 August 2018

Deputy Upper Tribunal Judge Davey