



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

Appeal Number: PA/06503/2018

THE IMMIGRATION ACTS

**Heard at Field House
On 1 November 2018**

**Decision & Reasons
Promulgated
On 28 November 2018**

Before

**UPPER TRIBUNAL JUDGE ALLEN
DEPUTY UPPER TRIBUNAL JUDGE LATTER**

Between

**KATANEH [S]
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr K Behbahani of Behbahani & Co Solicitors

For the Respondent: Ms L Kenny, Senior Home Office Presenting Officer

DECISION AND REASONS

1. This is the appeal of Mrs [S] against the decision of the First-tier Tribunal which in a decision promulgated in July 2018 dismissed her appeal against the Secretary of State's decision refusing asylum on 10 May 2018.
2. The basis of the claim risk on return to Iran is that she has converted to Christianity and faces risk on that account in Iran. She gave an account of being helped by a friend in 2012 after her father died who gave her various Christian religious items and she has in the meantime been a regular visitor to the United Kingdom since May 2002 having been here for

two years in April 2011 to 2013 and again for two years from July 2013 to July 2015 and then came again to the United Kingdom in May 2017.

3. It was during that visit to the United Kingdom that she says due to a pipe bursting in or near a storage container where she had stored Christian religious items these matters were discovered when her sister-in-law was informed and this created a problem for her because she said that her sister-in-law was a fundamentalist. There were family difficulties over property in light of the death of her husband given the provisions of Iranian law about division of property on death of a spouse where there are no children. And so this accentuated she said in effect the risk factor to her that there was the animosity of her sister-in-law who had become aware of her interest in Christianity.
4. Since coming to the United Kingdom she started attending church in October 2017 shortly before she claimed asylum and provided evidence from various people, one witness from the church, a witness who is the wife of the appellant's nephew and has known her for over seventeen years and has regularly visited Iran and she gave evidence about the relationship between the appellant and her late husband's family and the fact that she was attending church. There was also evidence from the appellant's sister and Mr Ahmadian who corroborated the evidence of the other witnesses.
5. The judge considered the evidence and concluded that it had not been shown that a real risk claim was made out. It seemed to the judge that it was at least important to the appellant that she was experiencing difficulties in the resolution of her late husband's estate. The judge said that if her religious conversion was well under way by 2012 it was a striking feature that the first time she ever visited a church in the United Kingdom was in 2017 and this was after the time that she claimed the religious materials were obtained.
6. The judge also said in relation to the evidence that all the answers she gave in the interview and indeed in the rather prosaic language used in her witness statements must be seen in the context of being capable of being essentially self-serving material designed to provide her with the wherewithal to demonstrate that she was a Christian convert.
7. So the judge dismissed the appeal, finding the claimant to lack credibility and his decision is challenged on a number of bases, the first of which is in the claimed failure properly to consider or make specific findings on the unchallenged corroborative evidence presented by the appellant in support of her appeal. That relates to the evidence of the four witnesses and we have set out what the judge said about that. Ms Kenny's point is that essentially this evidence was all second-hand and the witnesses were simply reporting on what they had been told but Mr Behbahani says well that is certainly not the case with regard to the witness from the church nor from the family members who had observed what had been going on and so it was not simply a matter of repetition.

8. We are concerned by what the judge had to say about the evidence. Having set it out in some detail really nothing was said about it other than the sentence quoted above earlier on, and it is ambiguous whether her reference to witness statements refers to the appellant's witness statement or the witness statements provided on her behalf and saying as the judge did that it must be seen in the context of being capable of being essentially self-serving, thus as, Judge Latter said in the course of argument, essentially it seemed to be moving towards making a finding which never actually occurred in relation to that point. We think there is force in what Mr Behbahani says about the extent to which the evidence of at least turned the witnesses was based on their individual observation of the appellant and the situation both as regards her conversion and regards the circumstances in Iran and we see force in that and what was said in **TF and MA [2018] CSIH 58** by the Court of Session concerning the need to exercise care and make clear findings on the evidence. There is also the associated point that the risk element is enhanced or at least potentially enhanced by animosity on the part of the family. It is not simply a case taken at its highest of a person who converted but a person whose conversion is known to people who are not favourably disposed towards her.
9. So we see weaknesses in the judge's decision as regards ground 1 in particular. That is sufficient in our view for us to find a material error of law in the decision. We are also concerned though by the fact that there was not evidence to show that the appellant said her religious conversion was well under way by 2012. That appears to have been a starting point, and there is a quotation at paragraph 11 of the grounds from her answer to question 18 at the interview that she "slowly slowly" began to move towards conversion rather than it being an instant matter. Certainly the judge was entitled to note the timing of her first going to church in light of the events in Iran but as it seems to us these matters need to be much more clearly and thoroughly reasoned than was done in this case.
10. So, bringing these matters together the judge simply failed to give proper consideration to the evidence of the witnesses in this case which was of clear materiality or at least potential materiality and so as a consequence we consider that it must be right as Mr Behbahani argues that not only is there a material error of law but that given the extent of remaking that needs to be made in this case, as the evidence goes to both the conversion and the associated issue of the attitude of the family in Iran that the matter will have to be reheard in its entirety in the First-tier Tribunal.

Notice of Decision

The appeal is allowed to the extent set out above.

No anonymity direction is made.

A handwritten signature in black ink, appearing to be 'A. Allen', written in a cursive style.

Signed
Upper Tribunal Judge Allen

Date 2 November 2018