



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

Appeal Number: HU/16688/2018

**THE IMMIGRATION ACTS**

**Heard at Field House  
On 14<sup>th</sup> June 2019**

**Decision & Reasons Promulgated  
On 01<sup>st</sup> July 2019**

**Before**

**DEPUTY UPPER TRIBUNAL JUDGE DAVIDGE**

**Between**

**MISS KALAIMANI SUBRAMANIAN  
(ANONYMITY DIRECTION NOT MADE)**

Appellant

**And**

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

Respondent

**Representation:**

For the Appellant: Mr L Tarlow

For the Respondent: None

**DECISION AND REASONS**

1. The court makes no order in respect of anonymity. The Appellant appeals the decision of First-tier Tribunal Judge Wilson promulgated on 8<sup>th</sup> March whereby he dismissed the appeal against the decision to refuse to grant entry clearance as a child.
2. Permission to appeal was granted at the First-tier Tribunal by Judge Keane on 22nd May 2019 on the basis that it was arguable that the First-tier Tribunal Judge had failed to give an adequately consideration to the Human rights grounds of appeal, restricting his fact finding and analysis to the Immigration rules rather than Article 8 ECHR.

3. Neither the Appellant nor the representative appeared before me. Although it appears that the representative may not have known that the application for an adjournment had been refused it was incumbent upon them to assume the hearing was to proceed unless notified the application had been granted. Instead they simply resent the application by fax on the day of hearing.
4. In the event Mr Tarlow conceded that the FT TJ had erred in law because he had not conducted an Article 8 enquiry. On the face of the decision although there was correct self-direction the FT TJ had not followed through neither making sufficient findings of fact upon which to, or conducting an Article 8 assessment.
5. Mr Tarlow indicated because the fact-finding exercise has been insufficient, and the decision must be remade on the position as at the date of hearing, and I am unable to remake the decision, as the case involves a minor, in fairness there should be the opportunity of a full hearing and the opportunity of adducing further evidence.
6. I find that the decision of the First tier Tribunal is vitiated by legal error but for which the outcome might be different. Because of the incomplete factual findings and the extent to which it is necessary to hear evidence I remit the matter to be heard de novo at the First -tier Tribunal.

Signed



Date 27 June 2019

Deputy Upper Tribunal Judge Davidge