



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

Appeal Number: EA/01913/2016

THE IMMIGRATION ACTS

**Field House
15 January 2018**

**Decision & Reasons
Promulgated
On 16 January 2018**

Before

UPPER TRIBUNAL JUDGE LINDSLEY

Between

**OLAWALE ADEDIPE
(ANONYMITY ORDER NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

DECISION AND REASONS

1. The appellant is a citizen of Nigeria born on 29th December 1969. He applied to remain in the UK as the extended family member (durable partner) of Ms Niatta Tucker, a Norwegian national exercising EEA rights in the UK. His appeal against the decision was dismissed for want of jurisdiction by First-tier Tribunal Judge Rothwell in a determination promulgated on the 13th July 2017.
2. Permission to appeal was granted by Judge of the First-tier Tribunal Foudy on the basis that it was arguable that the First-tier judge had erred in law in deciding that there was no jurisdiction to hear the appeal in light of the decision in Khan v Secretary of State for the Home Department [2017] EWCA Civ 1755.

3. I issued a direction on 3rd January 2018 stating that an error of law would be found, and the matter remitted to the First-tier Tribunal if no objections were sent within 7 days. The direction was sent out on 4th January 2018 by first class post to both parties. No objections have been received and so I make the decision set out below.

Decision:

1. The making of the decision of the First-tier Tribunal involved the making of an error on a point of law.
2. I set aside the decision of the First-tier Tribunal that there was no jurisdiction to hear this appeal.
3. I remit the appeal to the First-tier Tribunal for remaking.

Signed: Fiona Lindsley

Date: 15th January 2018

Upper Tribunal Judge Lindsley