



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

Appeal Numbers: EA/07940/2016
EA/07943/2016

THE IMMIGRATION ACTS

**Determined at Field House
On 5th March 2018**

**Decision & Reasons Promulgated
On 26th March 2018**

Before

DEPUTY UPPER TRIBUNAL JUDGE SAINI

Between

**MR M Z
MRS I Q
(ANONYMITY DIRECTION MADE)**

Appellants

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellants: No appearance (absence excused and explained)

For the Respondent: Ms K Pal, Senior Home Office Presenting Officer

DECISION BY CONSENT AND DIRECTIONS

Decision by Consent

1. Pursuant to Rule 39 of the Tribunal Procedure (Upper Tribunal) Rules 2008 and by the consent of the parties the following order is made:

Upon the parties' prior agreement that the decision of the First-tier Tribunal promulgated on 22nd August 2017 discloses a material error of law, it is hereby ordered by consent as follows:

Directions

- (i) The Resident Judge made errors of law in relation to the dismissal of the appeal for want of jurisdiction and/or other grounds in light of the Court of Appeal's subsequent decision in *Khan v Secretary of State for the Home Department & Anor* [2017] EWCA Civ 1755 and in light of the Supreme Court's recent judgment on 14th February 2018 of *SM (Algeria) v Entry Clearance Officer (UK visas section)* [2018] UKSC 9.
 - (ii) The decision is set aside in its entirety with no findings preserved.
 - (iii) The matter is to be remitted to be heard by a Judge of the First-tier Tribunal other than Resident Judge Zucker.
2. The Appellants' appeal in the Upper Tribunal is therefore allowed. The decision of the First-tier Tribunal is set aside for legal error by consent.

Anonymity

Direction Regarding Anonymity - Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008

Unless and until a Tribunal or court directs otherwise, the Appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify him or any member of his family. This direction applies both to the Appellant and to the Respondent. Failure to comply with this direction could lead to contempt of court proceedings.

Signed

Date 22/03/2018

Deputy Upper Tribunal Judge Saini