



**Upper Tribunal
(Immigration and Asylum Chamber) Appeal Number: UI-2022-002811
EA/09847/2021**

THE IMMIGRATION ACTS

**Heard at Field House
On the 21 October 2022**

**Decision & Reasons Promulgated
On the 30 November 2022**

Before

UPPER TRIBUNAL JUDGE ALLEN

Between

**SAMSUNNAHAR KHANAM
(ANONYMITY DIRECTION NOT MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Mr Md Rafiq Islam of Wilden Legal Solicitors

For the Respondent: Mr C Avery, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant is a national of Bangladesh. He appealed to the First-tier Tribunal against the Secretary of State's decision of 20 April 2021 refusing his application for entry clearance under the EU settlement scheme (EUSS) family permit.

2. The judge noted that the respondent, who was not represented before him, had referred to the appellant as being the sponsor's spouse rather than, as is in fact the case, her mother-in-law. The judge noted that the application was refused on the basis that only limited documentation had been provided to evidence the claimed relationship. The decision maker was not satisfied that the appellant had provided the required evidence of the relationship to show she was a family member of a relevant EEA citizen. The appeal was accordingly dismissed.
3. The appellant sought and was granted permission to appeal on the basis that though the judge accepted the claimed relationship he concluded that the dependency had not been established and therefore dismissed the appeal despite accepting the relationship.
4. At the hearing before me Mr Avery accepted that the judge had erred in looking for dependency. This was assumed in Appendix EUPF cases so the judge had erred and in the circumstance he suggested it was better for the matter to go back to the First-tier Tribunal for a full rehearing.
5. Mr Islam, though he observed that the case had been going on for some time and that it could take longer if remitted, agreed that there was a clear error in law and was happy to leave it to me to decide as to the proper disposal of the appeal.
6. I consider that in light of the agreed error by the judge in this case the matter will have to be reheard in full and the most appropriate forum for that is the First-tier Tribunal. Given that the matter has been going on for some time I strongly encourage the First-tier Tribunal to list this appeal as a matter of some urgency.
7. As set out above the appeal is allowed to the extent that it is remitted for a full rehearing.

No anonymity direction is made.



Signed

Date 16th November 2022

Upper Tribunal Judge Allen