



**IN THE UPPER TRIBUNAL
IMMIGRATION AND
CHAMBER**

ASYLUM

**Case No: UI-2022-002017
First-tier Tribunal No: EA/00087/2021**

THE IMMIGRATION ACTS

**Decision & Reasons Issued:
On the 28 March 2023**

Before

UPPER TRIBUNAL JUDGE MACLEMAN

Between

AMARJIT SINGH
(no anonymity order)

Appellant

and

SSHD

Respondent

Decided without a Hearing on 13 February 2023

DECISION AND REASONS

1. FtT Judge Parkes dismissed the appellant's appeal by a decision promulgated on 19 January 2022.
2. On 21 March 2022, FtT Judge Oxlade granted permission to appeal to the UT:

[1] The Appellant's in-time grounds of appeal challenge the decision that he had not shown that he was a spouse of an EEA National, and so could not bring himself within Regulation 7 of the Immigration (EEA) Regulations 2016, because of (a) an absence of reliable evidence to show that the proxy marriage had been registered properly, and in the alternative that (b) the marriage was one of convenience.

[2] In prolix grounds (paragraphs 6-10) "Ground 1", asserts the judge found that there was no evidence to show that a proxy marriage was lawful and valid in Punjab. However, contrary to that assertion, the Judge [5-8] examined some of the documents which had been provided, and found the evidence to be unreliable for stated reasons. It

may well be that the points identified by the Judge are well made, but it appears that he himself raised a number of concerns which (being a case determined on the papers) were not answered; it does not appear that these concerns had been raised by the Respondent, and so the Appellant was not on notice nor given an opportunity to address them. The assertion of unfairness (paragraphs 12-13) "Ground 2", is arguably an error of law material to the decision.

[3] In prolix grounds (paragraphs 16 to 18) "Ground 3", the Appellant refers to the other evidence on which the proxy marriage should have been considered, but to which no reference was made; there is an arguable error of law to fail to address all of the other evidence, if it had been filed, and where issue was taken with the reliability of other evidence.

[4] Finally, succinctly at paragraph 14, "ground 4") the Appellant argues that it was not open to the Judge to make a finding in the alternative of a marriage of convenience, where not already raised by the Respondent and without raising it with the Appellant. This is arguably an error of law, which might succeed as a stand-alone ground, if grounds 2 and 3 do not succeed.

[5] For the reasons given above the grounds of appeal disclose an arguable material error(s) of law ...

3. On 11 April 2022 the SSHD responded to the grant of permission, conceding that the FtT erred in law, and inviting the UT to set its decision aside and to remit the case.
4. There has been unfortunate administrative delay in listing the case in the UT for further decision.
5. It is appropriate to decide on error of law and further procedure without a hearing, under rule 34.
6. The FtT has erred in law, as conceded. Its decision stands only as a record of what was before the tribunal. The case is remitted for a fresh hearing, not before Judge Parkes.

Hugh Macleman
Judge of the Upper Tribunal, Immigration and Asylum Chamber
13 February 2023