

**Upper Tribunal**

**(Immigration and Asylum Chamber)** Appeal Number: HU/11879/2016

**THE IMMIGRATION ACTS**

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| **Heard at HMCTS Employment Tribunal Liverpool** | **Decision and Reasons Promulgated** | |
| **On 17 September 2018** | **On 20 September 2018** | |
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**Before**

**DEPUTY UPPER TRIBUNAL JUDGE O’RYAN**

**Between**

**HAME (aka MOHAMED) DRAMA (aka BALAYARA)**

**(ANONYMITY ORDER NOT MADE)**

Appellant

**and**

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

Respondent

**Representation:**

For the Appellant: Ms Patel, Counsel, instructed by Immigration Advice Service, Liverpool

For the Respondent: Mr Whitwell, Senior Home Office Presenting Officer

**DECISION AND REASONS**

UPON hearing from Ms Patel for the appellant and from Mr Whitwell for the respondent

AND UPON consideration of the appellant’s grounds of appeal dated 5 February 2018 against the decision of Judge of the First tier Tribunal Khan dated 22 January 2018, dismissing the appellant’s appeal against the respondent’s decision of 5 April 2016 refusing his human rights claim

AND UPON the parties indicating their agreement that the judge materially erred in law when assessing whether the appellant was cohabiting with his partner FD, and whether he had a caring role in looking after their children, in failing to take into account relevant evidence relating to those issues

AND UPON the Tribunal considering that it is appropriate to so order

IT IS HEREBY ORDERED, BY CONSENT, UNDER RULE 39, TRIBUNAL PROCEDURE (UPPER TRIBUNAL) RULES 2008, THAT:

1 The judge’s decision dismissing the appellant’s appeal be set aside.

2 The appellant’s appeal be remitted to the First tier Tribunal for re-hearing, such hearing to take place at the Manchester hearing centre unless otherwise directed by subsequent decision of the Tribunal.

Signed: Date: 18.9.18



Deputy Upper Tribunal Judge O’Ryan