



Reasons and Decision – Motifs et décision

SPONSORSHIP

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| Appellant(s) | HARJIT KAUR UPPAL | Appellant(e)(s) |
| Respondent | The Minister of Citizenship and Immigration Le ministre de la Citoyenneté et de l'Immigration | Intimé(e) |
| Date(s) of Hearing | April 22, 2015 | Date(s) de l'audience |
| Place of Hearing | Toronto, Ontario | Lieu de l'audience |
| Date of Decision | April 22, 2015 | Date de la décision |
| Panel | Patricia Greenside | Tribunal |
| Counsel for the Appellant(s) | Harinder Gahir Barrister and Solicitor | Conseil(s) de l'appelant(e) / des appelant(e)(s) |
| Designated Representative(s) | N/A | Représentant(e)(s) désigné(e)(s) |
| Counsel for the Minister | Yousuf Alam | Conseil du ministre |

REASONS FOR DECISION

[1] These are the reasons for the decision of the Immigration Appeal Division in the appeal of Harjit Kaur UPPAL (the Appellant) from the refusal of a permanent resident visa application made by her spouse, Avtar Singh GILL (the Applicant).

[2] An immigration officer refused the application by way of a letter dated November 14, 2012 on the basis the marriage between the Appellant and the Applicant was not a genuine marriage and was entered into primarily for the purpose of acquiring status or privilege under section 4(1) of the *Immigration and Refugee Protection Regulations*.

[3] The reasons for the refusal are set out in the processing notes found in the Record of the Appeal.¹

[4] The Appellant filed a Notice of Appeal on December 3, 2012.

[5] The Appellant filed documentary disclosures entered as Exhibits A-1 through A-4. The Record was entered as Exhibit R-1.

[6] The Minister reviewed the disclosure provided by the Appellant. After hearing the testimony of the Appellant and considering the concerns of the immigration officer, the Minister made the recommendation that the appeal be allowed.

[7] I find the recommendation of the Minister is not unreasonable. I find that the marriage is genuine and was not entered into primarily for the purpose of immigration, therefore the appeal is allowed.

[8] The Appellant is a 31-year-old woman. The Applicant is a 29-year-old man. After the Appellant's mother arranged the match and checked the Applicant's family background, the

¹ Exhibit R-1, pp 18-25

Appellant married the Applicant in India on December 10, 2011. They share a daughter who was born to them on June 13, 2013. Neither of them was previously married.

[9] I found the testimony of the Appellant to be credible and forthright.

[10] The evidence indicates that they have maintained regular and ongoing contact with one another; the Appellant has visited the Applicant twice since their marriage, both times for several months; and they share a daughter who has already spent eight months of her one and half years with her father, the Applicant. Upon review of the development of the relationship, their conduct before and since their wedding, their ongoing communications as well as their knowledge and interdependence with one another, I find that it is all consistent of that of a genuine relationship.

[11] While there were concerns raised by the immigration officer, relating to a poison pen letter, written by the Appellant's sister's ex-husband, I accept the testimony of the Appellant that it is without merit.

[12] I find on a balance of probabilities that the marriage was not entered into primarily for immigration and that it is genuine.

[13] The Applicant is therefore the spouse of the Appellant and a member of the family class.

[14] The refusal is not valid in law and the appeal is allowed.

NOTICE OF DECISION

The appeal is allowed. The officer's decision to refuse a permanent resident visa is set aside, and the officer must continue to process the application in accordance with the reasons of the Immigration Appeal Division.

"Patricia Greenside"
Patricia Greenside

May 6, 2015
Date

Judicial Review – Under section 72 of the Immigration and Refugee Protection Act, you may make an application to the Federal Court for judicial review of this decision, with leave of that Court. You may wish to get advice from counsel as soon as possible, since there are time limits for this application.