

Federal Court



Cour fédérale

**Date: 20240125**

**Docket: IMM-1779-23**

**Citation: 2024 FC 122**

**Ottawa, Ontario, January 25, 2024**

**PRESENT: The Honourable Mr. Justice Régimbald**

**BETWEEN:**

**TARANJIT SINGH**

**Applicant**

**and**

**THE MINISTER OF IMMIGRATION, REFUGEES AND  
CITIZENSHIP**

**Respondent**

**JUDGMENT AND REASONS**

I. Overview

[1] This is an application for judicial review of a decision of the Refugee Appeal Division [RAD] dated January 11, 2023 finding that the Applicant is not a Convention Refugee pursuant to section 96 of the *Immigration and Refugee Protection Act*, SC 2002, c 27 [IRPA] nor a person in need of protection pursuant to section 97 of IRPA.

[2] The Applicant is a citizen of India. He claims to be involved in a land dispute with certain family members, who have been threatening him and his family. The RAD upheld the Refugee Protection Division's [RPD or Tribunal] decision, finding that the Applicant has a viable Internal Flight Alternative [IFA] in the city of Bengaluru, India.

[3] Having considered the record before this Court, including the parties' written and oral submissions, as well as the applicable law, the Applicant has failed to discharge his burden to demonstrate that the RAD's decision is unreasonable. For the reasons that follow, this application for judicial review is dismissed.

## II. Facts

[4] The Applicant, Taranjit Singh [Applicant], is a 25-year-old Indian national from the state of Punjab.

[5] The Applicant and his family are entangled in a family dispute over land. The series of events began when the Applicant's father inherited land from the Applicant's grandfather. Since the land initially belonged to the Applicant's great-grandfather, his great-uncle and his sons also wanted ownership over the land. The great uncle and his sons are the agents of harm in this application.

[6] The agents of harm allegedly murdered one of the Applicant's uncles in 1986, but were acquitted of the crime. In 2013, the Applicant's father suddenly disappeared, and his disappearance

is thought to be linked to the land dispute. The disputed land is now in the Applicant's mother's name.

[7] The Applicant and his family have been threatened by the agents of harm on multiple occasions over the years. The Applicant was attacked on three occasions, in August 2015, March 2016, and January 2019. Some time after the last attack, he came to Canada and sought refugee protection.

[8] The Applicant also believes that the agents of harm have a connection to a member of the legislative assembly [MLA], who has influence and resources to threaten the Applicant and his family.

[9] In a decision dated April 26, 2022, the RPD dismissed the Applicant's refugee protection claim on the basis that a viable IFA was available in the city of Bengaluru. The RAD upheld the RPD's conclusions on the viable IFA and dismissed the Applicant's refugee protection claim.

### III. Decision Under Review

[10] The RAD found the Applicant's narrative to be credible.

[11] However, the RAD was not satisfied that the Applicant would face harm, risk to life, torture or cruel and unusual treatment or punishment in Bengaluru. On the first prong of the IFA test, the RAD found that while the Applicant and his mother have been threatened in their hometown, there is not sufficient evidence that there is a threat outside of that region or in Bengaluru. The threat

that the Applicant is facing is local, and no objective evidence points to a threat beyond his hometown. The RAD also found that the Applicant's link to the disputed land is indirect, because the land is owned by his mother and not him.

[12] The RAD also looked at the nature and frequency of the past events, and was not convinced that it posed a forward-looking risk of harm under section 97 of the IRPA. The RAD was also not convinced that the harm and threats have increased with time, or that the agents of harm would be motivated to find and harm the Applicant in Bengaluru.

[13] The RAD also concluded that there is not sufficient evidence to prove that the agents of harm are connected to a MLA, that this MLA would assist the agents of harm or use their financial power to harm the Applicant in Bengaluru. The evidence is also insufficient to prove that the MLA would have enough influence over the police to access the tenant verification system to locate the Applicant.

[14] On the second prong of the IFA test, the RAD analyzed the Applicant's personal circumstances and found that the Applicant is young, has no health concerns, has a high school education, speaks Hindi and Punjabi, and can likely find employment in Bengaluru. Considering these factors, the Applicant would not face undue hardship upon relocation in Bengaluru.

#### IV. Issue and Standard of Review

[15] The sole issue in this judicial review is whether the RAD reasonably held that there was a viable IFA in Bengaluru.

[16] The standard of review in this case is that of reasonableness (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [Vavilov] at paras 10, 25; *Mason v Canada (Citizenship and Immigration)*, 2023 SCC 21 [Mason] at paras 7, 39–44). To avoid judicial intervention, the decision must bear the hallmarks of reasonableness – justification, transparency and intelligibility (*Vavilov*, at para 99; *Mason*, at para 59). A decision may be unreasonable if the decision maker misapprehended the evidence before it (*Vavilov*, at paras 125–126; *Mason*, at para 73). Reasonableness review is not a “rubber-stamping” exercise, it is a robust form of review (*Vavilov*, at para 13; *Mason*, at para 63). The party challenging the decision bears the onus of demonstrating that the decision is unreasonable (*Vavilov*, at para 100).

## V. Analysis

### A. *The RAD’s decision is reasonable*

[17] The test to determine if an IFA is viable in the claimant’s country is set out in *Rasaratnam v Canada (Minister of Employment and Immigration)*, 1991 CanLII 13517 (FCA) at paragraph 10. The test is two-pronged: the claimant has an IFA when (1) they will not be subject to a serious possibility of persecution nor to a risk of harm under subsection 97(1) of the IRPA in the proposed IFA location; and (2) it would not be objectively unreasonable for them to seek refuge there, taking into account all the circumstances. Both prongs must be satisfied in order to make a finding that a claimant has an IFA (*Thirunavukkarasu v Canada (Minister of Employment and Immigration)*, 1993 CanLII 3011 (FCA) at 597-598). The Applicant bears the burden of demonstrating that the proposed IFAs are not viable.

[18] The Applicant argues that the RAD erred in finding that the agents of harm are not motivated to persecute him in Bengaluru. The Applicant submits that there continues to be confrontations and, based on previous events, the RAD should have concluded that the Applicant remains consistently targeted.

[19] Moreover, the Applicant submits that the IFA is not reasonable because the agents of harm have consistently targeted him and his family, and will endeavour to find them in their new location. The agents of harm have continued to harass his mother, and she could be compelled to disclose his whereabouts in the IFA. This makes the IFA unreasonable because the Applicant would essentially have to live in hiding in Bengaluru and cease all communications with his family and friends (*Ali v Canada (Citizenship and Immigration)*, 2020 FC 93 [*Ali*] at para 50; *Zamora Huerta v Canada (Citizenship and Immigration)*, 2008 FC 586 [*Zamora Huerta*] at para 29). Finally, the Applicant submits that the agents of harm can use their financial resources and influence, namely by collaborating with a MLA and the police, to find him in Bengaluru.

[20] In my view, the Applicant has failed to demonstrate that the RAD's findings were unreasonable. On the first prong of the test, the RAD considered that there is little motivation for the agents of harm to locate the Applicant and his family in Bengaluru. The RAD concluded that there is no evidence demonstrating that the agents of harm's behaviour is increasing and that there was not sufficient evidence to demonstrate a threat outside of his hometown or in Bengaluru. The Applicant alleges that the agents of harm could harass his mother and that she may have to disclose his whereabouts in the IFA (relying on *Ali* and *Zamora Huerta*), but he did not point to any cogent evidence that his mother or other family members would be in dire and

serious threat of harm and violence if they lied or refused to disclose the Applicant's whereabouts (*Singh v Canada (Citizenship and Immigration)*, 2023 FC 1715 at para 47).

[21] The RAD also analyzed the agents of harm's means to locate the Applicant and his family, and reasonably found that the arguments advanced by the Applicant are vague and not rooted in evidence. The Applicant alleges that the agents of harm have links with a MLA and other financial resources, and they will use this influence to locate the Applicant and his family. However, the Applicant did not provide sufficient evidence that this is likely to happen, beyond mere speculation (*Soto v Canada (Citizenship and Immigration)*, 2021 FC 1141 at paras 16–20).

[22] On the second prong of the test, in determining whether Bengaluru is a reasonable relocation option for the Applicant, the RAD reasonably considered all of his personal circumstances and reasonably found that the Applicant would not face undue hardship if he relocates to Bengaluru.

[23] In my view, the RAD's reasoning is intelligible, transparent and justified in light of the record before it (*Vavilov*, at paras 15, 98). The Applicant bears the onus of proving that the decision is unreasonable, and he did not demonstrate that the RAD committed errors that were sufficiently central or significant to render the decision unreasonable (*Vavilov*, at para 100). The RAD has considered the entirety of the evidence placed before the RPD in making their assessment, and concluded that the Applicant has failed to demonstrate that relocating to Bengaluru would put him at risk or be unduly harsh, or objectively unreasonable. I therefore find no basis upon which to intervene.

[24] The Applicant's request is essentially that the Court performs an examination of the evidence *de novo* and re-weighs the RAD's evidentiary assessment. Unfortunately, this is not the Court's role on judicial review (*Zhang v Canada (Citizenship and Immigration)*, 2023 FC 1308 at para 36; *Vavilov*, at paras 124-125).

## VI. Conclusion

[25] The RAD's decision is reasonable. The RAD conducted a reasonable assessment of the availability of a viable IFA in Bengaluru.

[26] The Applicant's application for judicial review is dismissed.

[27] The parties have not proposed any question for certification and I agree that none arises in the circumstances.



**JUDGMENT in IMM-1779-23**

**THIS COURT'S JUDGMENT is that:**

1. The application for judicial review is dismissed.
2. There is no question for certification.

"Guy Régimbald"

---

Judge

**FEDERAL COURT**  
**SOLICITORS OF RECORD**

**DOCKET:** IMM-1779-23

**STYLE OF CAUSE:** TARANJIT SINGH v THE MINISTER OF  
CITIZENSHIP AND IMMIGRATION

**PLACE OF HEARING:** MONTRÉAL, QUÉBEC

**DATE OF HEARING:** JANUARY 23, 2024

**JUDGMENT AND REASONS:** RÉGIMBALD J.

**DATED:** JANUARY 25, 2024

**APPEARANCES:**

Me Miguel Mendez FOR THE APPLICANT

Me Simone Truong FOR THE RESPONDENT

**SOLICITORS OF RECORD:**

Étude Légale Stewart Istvanffy FOR THE APPLICANT  
Barristers & Solicitors  
Montréal, Québec

Attorney General of Canada FOR THE RESPONDENT  
Montréal, Québec