

Federal Court



Cour fédérale

Date: 20241031

Docket: IMM-4860-23

Citation: 2024 FC 1742

Ottawa, Ontario, October 31, 2024

PRESENT: Mr. Justice Norris

BETWEEN:

HAROON HAMZA

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

[1] The applicant was born in the United Arab Emirates in 1994 and grew up there but he is a citizen of Pakistan. The applicant first came to Canada as a student in 2013. He made a claim for refugee protection in Canada in September 2019 on the basis of his fear of harm in Pakistan due to a dispute with members of his extended family over his late father's property, which had been left to the applicant's mother and, thereby, to the applicant and his siblings. The key events the applicant relied on in support of his claim allegedly occurred in 2010 and 2014.

[2] The Refugee Protection Division (RPD) of the Immigration and Refugee Board of Canada rejected the claim on credibility grounds on August 8, 2022. The Refugee Appeal Division (RAD) dismissed the applicant's appeal on March 27, 2023.

[3] The RAD agreed with the RPD that the applicant's claim lacked credibility due to, among other things: material, unexplained omissions in the original Basis of Claim narrative; material, unexplained omissions in an application for permanent residence in Canada on humanitarian and compassionate grounds the applicant submitted in 2020; the applicant's failure to obtain corroborative evidence to support his claim; and the applicant's delay in seeking refugee protection. The RAD also found that the RPD did not err in refusing to accede to the applicant's request for more time to gather corroborative evidence. Finally, the RAD found that, in any event, a claim for refugee protection could not be based on a property dispute where, as here, the claimant had failed to take reasonable steps to free himself from the dispute (e.g. by relinquishing any interest in the property in question). Accordingly, the RAD confirmed the RPD's determination that the applicant is neither a Convention refugee nor a person in need of protection.

[4] The applicant now seeks judicial review of the RAD's decision. The sole basis on which he challenges the RAD's decision is that some of its adverse credibility findings are unreasonable.

[5] Even if valid, the applicant's challenges to the RAD's credibility determinations would not provide a basis for setting aside the decision under review. This is because the applicant has

not challenged the RAD's finding that, since his claim essentially relates to a property dispute from which he had failed to take reasonable steps to free himself, it cannot be a basis for a claim for protection under either section 96 or 97 of the *Immigration and Refugee Protection Act*, SC 2001, c 27 (*IRPA*). That finding alone is determinative of the applicant's refugee claim: see *Sanchez v Canada (Citizenship and Immigration)*, 2007 FCA 99 at paras 7 and 16-20; *Malik v Canada (Citizenship and Immigration)*, 2019 FC 955 at paras 19-30; *Akpore v Canada (Citizenship and Immigration)*, 2023 FC 362 at para 22; and *Fashola v Canada (Citizenship and Immigration)*, 2023 FC 1671 at para 20. On its own, this was a legally sufficient basis for the RAD to dismiss the applicant's appeal. This finding, which stands unchallenged in this application, is also a sufficient basis on which to uphold the RAD's decision.

[6] For these reasons, the application for judicial review must be dismissed.

[7] The parties did not suggest any serious questions of general importance for certification under paragraph 74(d) of the *IRPA*. I agree that no question arises.

JUDGMENT IN IMM-4860-23

THIS COURT'S JUDGMENT is that

1. The application for judicial review is dismissed.
2. No question of general importance is stated.

“John Norris”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-4860-23

STYLE OF CAUSE: HAROON HAMZA v THE MINISTER OF
CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: HELD BY VIDEOCONFERENCE

DATE OF HEARING: OCTOBER 31, 2024

JUDGMENT AND REASONS: NORRIS J.

DATED: OCTOBER 31, 2024

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