

Federal Court



Cour fédérale

**Date: 20250527**

**Docket: IMM-13186-24**

**Citation: 2025 FC 957**

**Toronto, Ontario, May 27, 2025**

**PRESENT: The Honourable Madam Justice Furlanetto**

**BETWEEN:**

**SUKHPREET SINGH**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP  
AND IMMIGRATION**

**Respondent**

**JUDGMENT AND REASONS**

[1] This is an application for judicial review of a July 10, 2024 decision [Decision] of the Refugee Appeal Division [RAD] confirming a decision of the Refugee Protection Division [RPD] that the Applicant is not a person in need of protection pursuant to subsection 97(1) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [IRPA]. The determinative issue was the availability of an internal flight alternative [IFA].

[2] On this judicial review, the Respondent concedes that the RAD erred in predicating its decision under the first prong of the IFA analysis on a legal assumption that was not supported in the Decision – *i.e.*, that the Applicant could cause the inheritance land that was the subject of his persecution to be disclaimed by executing a deed of release to future inheritance. In my view, this error is central to the first prong of the IFA analysis and as such, the Decision cannot stand. The application is accordingly granted, and the matter shall be referred back for redetermination.

## I. Background

[3] The Applicant, Sukhpreet Singh, is a 30-year-old citizen of India. He claims fear for his life at the hands of his village Sarpanch, Harjunder Kaur [AOH], due to a land dispute arising from his future property inheritance from his father. He alleges the AOH has inflicted violence on him and his family, facilitated his arrest, and destroyed his family's property. In 2017, the AOH brought a civil suit against the Applicant and his family regarding the land dispute, which was ultimately dismissed in November 2022.

[4] The Applicant arrived in Canada in December 2017 and shortly thereafter sought refugee protection. In May 2022, the RPD rejected the Applicant's refugee application. The Applicant appealed the RPD's decision and the RAD subsequently dismissed his appeal. The determinative issue before the RPD and the RAD was the availability of an IFA in Delhi.

[5] The Applicant was successful in his application for judicial review of the RAD's decision. In *Singh v Canada (Citizenship and Immigration)*, 2023 FC 1726 [*Singh*], Justice Southcott found the RAD's decision was unresponsive, and did not intelligibly address, certain

aspects of the Applicant's appeal submissions. The application was accordingly sent back for redetermination.

[6] On redetermination, the Applicant submitted new evidence and the RAD put the Applicant on notice of additional questions that it considered relevant to the appeal and for which he could provide additional submissions, including: "A claimant is expected to relinquish property to avoid a future risk. If you gave up your future rights to the land, would you still be at risk?".

[7] In response to the question, the Applicant disputed that he could give up property that belonged to his father while his father was still alive and asserted that it would be unreasonable to expect his father to give up such property. The Applicant stated that even if he could persuade his father accordingly that this would not have dissuaded the AOH. He further asserted that any such request would be unreasonable because it would bring the justice system into disrepute as it would amount to extortion.

[8] In its Decision, the RAD maintained that the Applicant had a viable IFA in Delhi and dismissed the appeal. The RAD's IFA finding was predicated on the view that the Applicant could sufficiently de-motivate the AOH from seeking out the Applicant by obtaining a durable disclaimer of future inheritance by executing a "deed of release" that would be delivered to the AOH via third party. The RAD did not accept the Applicant's argument that even without the land, the AOH would still be motivated by revenge to harm the Applicant and his family because of the civil lawsuit. In addition, the RAD agreed with the RPD that the AOH did not have a

means to locate the Applicant in the IFA through the Applicant's family and friends. It found that relocating to Delhi would not be unreasonable for the Applicant.

## II. Analysis

[9] The determinative issue on this application is reasonableness. To assess reasonableness, the Court must consider whether the Decision is “based on an internally coherent and rational chain of analysis and that it is justified in relation to the facts and law that constrain the decision maker”: *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [*Vavilov*] at para 85. Any alleged flaws or shortcomings with the decision must be more than merely superficial or peripheral to the merits of the decision. The Court must be satisfied that they are sufficiently central or significant to render the decision unreasonable: *Vavilov* at para 100. A decision will be reasonable if when read as a whole and taking into account the administrative setting, it bears the hallmarks of justification, transparency, and intelligibility: *Vavilov* at para 99.

[10] The Respondent acknowledges that the RAD took judicial notice of foreign law when it was not entitled to do so. As such, it concedes that the RAD's reasons on the AOH's motivation to seek out the Applicant in the IFA does not meet the required level of justification, intelligibility and transparency to be reasonable. However, the Respondent argues that this error is not determinative as the RAD's finding that the AOH did not have the means to track down the Applicant in Delhi was reasonable and sufficient on its own to establish that the IFA was safe. I cannot agree.

[11] First, I do not consider the so-called “means” analysis conducted by the RAD to be complete or reasonable as it does not include a forward-looking risk assessment nor engage fully with the evidence.

[12] Second, in the context of this proceeding, and the “means” discussed (*i.e.*, the AOH approaching the Applicant’s family and friends for information about the Applicant), an analysis on “means” is not completely severable from an analysis of “motivation”. Any consideration of future risk of the AOH approaching the Applicant’s family or friends to find out the whereabouts of the Applicant is connected to the AOH’s motivation to approach and provide pressure on the Applicant’s family or friends for the Applicant’s whereabouts. Thus, I do not consider the RAD’s “means” analysis to be sufficient on its own to render the Decision reasonable. It must be preceded by a motivation analysis that is reasonable.

[13] While this error in my view is determinative of the application, I will nonetheless go on to address procedural fairness as this may also be relevant to any redetermination proceedings. The outstanding question here is whether the Applicant should have been given notice of the legal assumption made by the RAD and an opportunity to respond. On this issue, I agree with the Applicant that the question posed by the RAD to the Applicant was too broad.

[14] While a decision-maker does not need to flesh out a new issue in much detail for the parties, they must flag the issue with enough particularity to facilitate appropriate submissions: *CSX Transportation, Inc v ABB Inc*, 2022 FCA 96 at para 9. In this case, the RAD relied on a specific legal assumption (*i.e.*, that the land inheritance could be relinquished through a deed of

release effected through a third party) for the purpose of concluding that the Applicant could (and should) relinquish his future right to the land. However, the specific legal remedy proposed was never raised with the Applicant and in my view, was not apparent from the question posed. I agree with the Applicant, the nature of the question put to the Applicant was insufficient in view of the decision made and the RAD should have invited the Applicant to make submissions on whether the legal remedy was supported under Indian law. In failing to do so, the RAD also breached procedural fairness.

[15] For all these reasons, the application is granted and the matter remitted back to the RAD for redetermination.

[16] There was no question for certification proposed by the parties, and I agree that none arises in this case.

**JUDGMENT IN IMM-13186-24**

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

1. The application for judicial review is granted, the decision of the RAD is set aside and the matter is remitted back to a different member of the RAD for redetermination.
2. No question of general importance is certified.

"Angela Furlanetto"

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Judge

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

**DOCKET:** IMM-13186-24

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

**PLACE OF HEARING:** TORONTO, ONTARIO

**DATE OF HEARING:** MAY 22, 2025

**JUDGMENT AND:** FURLANETTO J.

**DATED:** MAY 27, 2025

**APPEARANCES:**

|                |                    |
|----------------|--------------------|
| Steven Blakey  | FOR THE APPLICANT  |
| Zofia Rogowska | FOR THE RESPONDENT |

**SOLICITORS OF RECORD:**

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