Federal Court  Cour fédérale

Date: 20231124

Docket: IMM-11792-22

Citation: 2023 FC 1557

Montréal, Quebec, November 24, 2023

PRESENT: Mr. Justice Gascon

BETWEEN:

GANESH KHOSLA
MAMTA KHOSLA
BHAVYA KHOSLA
ANGAD KHOSLA

Applicants

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

I. Overview

[1] The applicants, Mr. Ganesh Khosla, accompanied by his wife, Ms. Mamta Khosla, and their children, Bhavya and Angad Khosla [together, the Khosla family], are seeking judicial review of a decision dated October 31, 2022 [Decision] whereby the Refugee Appeal Division

[RAD] dismissed their appeal and confirmed the Refugee Protection Division's [RPD] decision refusing their refugee claim. The RAD rejected the Khosla family's claim for refugee protection under both sections 96 and 97 of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [IRPA] because a viable internal flight alternative [IFA] exists in the city of Kolkata (previously known as Calcutta) in their country of citizenship, India.

[2] The Khosla family are asking the Court for an order setting aside the Decision. They submit that the RAD erred in its determination of a viable IFA in Kolkata, by improperly considering various aspects of their claim as well as the documentary evidence.

[3] For the reasons that follow, I will dismiss this application for judicial review. In my view, the RAD's Decision was responsive to the evidence, and its findings regarding the IFA location in Kolkata have the qualities that make the decision maker's reasoning logical and consistent in relation to the relevant legal and factual constraints. There are no reasons justifying the Court's intervention.

II. Background

A. *The factual context*

[4] Mr. Khosla owned a business manufacturing medicine products and supplying those to local dealers in the state of Haryana, India. The state of Haryana is located north of New Delhi and adjacent to the state of Punjab. Mr. Khosla's local dealers then sold his products to hospitals and other medical facilities.

[5] Mr. Khosla hired an individual named Vikram Gupta as the manager for his business. On February 20, 2019, the Haryana police informed Mr. Khosla that they had arrested Mr. Gupta after discovering that he had been using Mr. Khosla's company trucks to carry illegal drugs and weapons.

[6] On February 25, 2019, Mr. Khosla was told by one of his employees that he had witnessed Mr. Gupta engaging in illegal activity. Mr. Khosla reported this information to the Haryana police.

[7] On February 28, 2019, the police came to Mr. Khosla's house. They beat him and accused him of using his company as a front to distribute illegal drugs and weapons. When asked by the Haryana police, the employee who had come forward to Mr. Khosla denied having spoken to him about Mr. Gupta, and Mr. Gupta was released. Mr. Khosla was arrested, fingerprinted, and forced to sign blank pieces of paper.

[8] On March 1, 2019, Mr. Khosla's family paid a bribe to the police to have him released, and Mr. Khosla then sought medical treatment for his injuries.

[9] On March 4, 2019, Mr. Gupta came to Mr. Khosla's house with some goons, beat him again, and threatened his life. After this event, Mr. Khosla fled to his in-law's house while recovering from his injuries. Shortly thereafter, Mr. Khosla and his wife left for New Delhi where they were able to obtain Canadian visas for themselves and their children. Mr. Khosla and his wife left India for Canada in August 2019, and their children followed in December 2019.

[10] In their refugee claim, the Khosla family alleged that they were persecuted by both the local Haryana police and Mr. Gupta, and that they would continue to be persecuted should they return to India. They maintain that the Haryana police continue to search for them and that the police have now accused Mr. Khosla of aiding Khalistan militants, a separatist movement seeking to create a homeland for Sikhs by establishing an ethno-religious sovereign state called Khalistan.

[11] Further to its analysis, the RPD concluded that the determinative issue in this case was whether an IFA existed for the Khosla family. The RPD determined that, based on the two-pronged IFA test, a viable IFA existed for them in Kolkata.

B. *The RAD Decision*

[12] The Khosla family appealed the RPD's decision to the RAD. The RAD confirmed the RPD's decision and found that the Khosla family are neither Convention refugees nor persons in need of protection because they have a viable IFA in Kolkata.

[13] In its Decision, the RAD first determined that there was no serious possibility of persecution or likelihood of harm from Mr. Gupta in the proposed IFA. To this effect, the RAD noted that the Khosla family did not submit any evidence demonstrating that Mr. Gupta would be able to find them in Kolkata, a city of over 13 million people located roughly 1,700 kilometers from their home region of Kurukshetra, in the state of Haryana. The Khosla family had argued that Mr. Gupta has high-level political connections that he could leverage to locate them in Kolkata. However, observed the RAD, they submitted no evidence of these connections and,

when asked whether they tried to investigate these connections further, Mr. Khosla testified that he did not. The RAD therefore concluded that the Khosla family had failed to establish Mr. Gupta's political connections.

[14] Second, the RAD concluded that there was no serious possibility of persecution or likelihood of harm for the Khosla family in the proposed IFA, stemming from the Haryana police. The RAD concluded that the Khosla family were not at risk of being found via India's tenant verification system or Crime and Criminal Tracking Network System [CCTNS], a database that digitizes data related to reports registered, cases investigated, and charge sheets filed in police stations across India. The RAD noted that the documentary evidence demonstrates that the Kolkata police lack the resources to enforce the tenant verification system. The RAD further determined that the Haryana police were acting extra-judicially in their arrest of Mr. Khosla, and that his information was therefore not entered and reported in the CCTNS. In support of this finding, the RAD relied on the fact that the police did not file a First Information Report [FIR] or other documents, which is a necessary step to upload information to the CCTNS. The RAD further observed that individuals cannot be flagged in the CCTNS without documents such as a FIR, a criminal record, or an arrest or court surrender form being issued against them. As Mr. Khosla's profile did not fit any of these situations, the RAD concluded that the Khosla family could not be listed in the CCTNS, nor could they be flagged for criminality in India's tenant verification system. Additionally, the RAD referred to the documentary evidence on India to conclude that there was limited inter-state police communications outside of extreme cases, such as terrorism, smuggling, or high-profile organized crime, thus making it incredibly difficult and unlikely for the Haryana police to locate the Khosla family in the proposed IFA.

[15] Third, the RAD determined that it would not be objectively unreasonable for the Khosla family to relocate to Kolkata. In coming to this conclusion, the RAD relied on the extensive work and educational experience of the Khosla family, such as the university education of both Ms. Khosla and her daughter, and Mr. Khosla's entrepreneurial experience. The RAD also observed that the linguistic abilities and faith of the Khosla family did not pose resettlement barriers significant enough to put their lives or safety in jeopardy in Kolkata.

C. *The standard of review*

[16] It is not disputed that the standard of reasonableness applies to the Decision under review and to findings regarding the existence of a viable IFA (*Valencia v Canada (Citizenship and Immigration)*, 2022 FC 386 [*Valencia*] at para 19; *Adeleye v Canada (Citizenship and Immigration)*, 2022 FC 81 at para 14; *Ambroise v Canada (Citizenship and Immigration*), 2021 FC 62 at para 6; *Singh v Canada (Citizenship and Immigration)*, 2020 FC 350 [*Singh 2020*] at para 17; *Kaisar v Canada (Citizenship and Immigration)*, 2017 FC 789 at para 11). This is confirmed by the Supreme Court of Canada's landmark decision in *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [*Vavilov*], where the Court established a presumption that the standard of reasonableness is the applicable standard in judicial reviews of the merits of administrative decisions (*Mason v Canada (Citizenship and Immigration)*, 2023 SCC 21 [*Mason*] at para 7).

[17] Where the applicable standard of review is reasonableness, the role of a reviewing court is to examine the reasons given by the administrative decision maker and to determine whether the decision is based on "an internally coherent and rational chain of analysis" and is "justified in

relation to the facts and law that constrain the decision maker" (*Vavilov* at para 85; *Mason* at para 64). The reviewing court must therefore ask whether the "decision bears the hallmarks of reasonableness—justification, transparency and intelligibility" (*Vavilov* at para 99). Both the outcome of the decision and its reasoning process must be considered in assessing whether these hallmarks are met (*Vavilov* at paras 15, 95, 136).

[18] Such a review must include a rigorous and robust evaluation of administrative decisions. However, as part of its analysis of the reasonableness of a decision, the reviewing court must take a "reasons first" approach and begin its inquiry by examining the reasons provided with "respectful attention", seeking to understand the reasoning process followed by the decision maker to arrive at its conclusion (*Mason* at paras 58, 60; *Vavilov* at para 84). The reviewing court must adopt an attitude of restraint and intervene "only where it is truly necessary to do so in order to safeguard the legality, rationality and fairness of the administrative process" (*Vavilov* at para 13), without "reweighing and reassessing the evidence" before it (*Vavilov* at para 125).

[19] The onus is on the party challenging the decision to prove that it is unreasonable. Flaws must be more than superficial for the reviewing court to overturn an administrative decision. The court must be satisfied that there are "sufficiently serious shortcomings" (*Vavilov* at para 100).

III. Analysis

[20] The Khosla family argue that the RAD did not properly consider all of the elements of their file or their personal circumstances and that, because of these omissions, the RAD's IFA analysis is unreasonable.

[21] First, the Khosla family state that the RAD did not properly assess their risk of being persecuted by Mr. Gupta or the Haryana police. Concerning Mr. Gupta, the Khosla family submit that Mr. Gupta is clearly involved with the police and has political connections, and that it is difficult to understand how the RAD could have expected them to provide any more evidence to this effect. Regarding the Haryana police, the Khosla family claim that the RAD erred in determining they could not be found via India's tenant verification system or CCTNS as it improperly considered the documentary evidence in the National Documentation Package for India [NDP].

[22] Second, the Khosla family contend that the RAD failed to consider their personal circumstances as a nuclear family relocating across India. Given the documentary evidence in the NDP, which indicates that interstate migration is relatively uncommon in India, the Khosla family submit that their family relocation would risk raising police suspicion.

[23] Finally, the Khosla family maintain that, given the evidence about the Haryana police's ongoing and continuing enquiries about them, the RAD erred in determining that their family members still living in the state of Haryana could not disclose their location in the proposed IFA.

[24] Despite the solid and able submissions of counsel for the Khosla family, I am not persuaded by the arguments advanced in support of their position. I instead agree with the respondent, the Minister of Citizenship and Immigration [Minister], that the RAD correctly applied the two-prong IFA test and reasonably concluded the Khosla family had a viable IFA in Kolkata.

A. *The applicable test on IFA determinations*

[25] The test to determine the existence of a viable IFA comes from *Rasaratnam v Canada (Minister of Employment and Immigration)*, [1992] 1 FC 706 (FCA) and *Thirunavukkarasu v Canada (Minister of Employment and Immigration)*, [1994] 1 FC 589 (CA) [*Thirunavukkarasu*]. Those decisions from the Federal Court of Appeal state that two criteria must be established, on a balance of probabilities, in order to find that a proposed IFA is reasonable: 1) there must be no serious possibility of the claimant being subject to persecution in the part of the country in which the IFA exists; and 2) it must not be unreasonable for the claimant to seek refuge in the IFA, upon consideration of all their particular circumstances.

[26] In *Singh 2020*, the Court reminded that "the analysis of an IFA is based on the principle that international protection can only be offered to refugee protection claimants in cases where the country of origin is unable to provide to the person requesting refugee protection adequate protection everywhere within their territory" [emphasis added] (*Singh 2020* at para 26). If a refugee claimant has a viable IFA, this will negate a claim for refugee protection under either section 96 or 97 of the IRPA, regardless of the merits of other aspects of the claim (*Olusola v Canada (Citizenship and Immigration)*, 2020 FC 799 at para 7).

[27] When an IFA is established, the onus is on the refugee claimant to demonstrate that the IFA is inadequate (*Thirunavukkarasu* at para 12; *Salaudeen v Canada (Citizenship and Immigration)*, 2022 FC 39 at para 26; *Manzoor-Ul-Haq v Canada (Citizenship and Immigration)*, 2020 FC 1077 at para 24; *Feboke v Canada (Citizenship and Immigration)*, 2020 FC 155 at paras 43–44).

[28] The Khosla family have not contested the RAD's analysis concerning the second prong of the IFA test. The RPD and the RAD therefore properly concluded that it would not be unreasonable for the Khosla family to relocate to Kolkata. The only issue before the Court is whether the RAD's conclusions on the first prong of the IFA test are reasonable.

B. ***The serious possibility of persecution or risk in the IFA location***

(1) No motivation or means for Mr. Gupta

[29] Regarding Mr. Gupta, I am not convinced that the RAD can be faulted for its analysis surrounding the inability of Mr. Gupta to find the Khosla family. Apart from Mr. Gupta's own statement as reported by Mr. Khosla, there is nothing in the record to establish Mr. Gupta's alleged political connections, nor any evidence that he would be motivated to use those connections to track down the Khosla family. In my view, in the circumstances of this case, it was not unreasonable for the RAD to require proof demonstrating how Mr. Gupta's alleged political ties could enable him to trace the Khosla family. This type of evidence would have spoken directly to the ability of their alleged persecutor to find them in the proposed IFA.

[30] The Khosla family argue that the RAD violated the presumption of truthfulness of refugee claimants by citing a lack of documentary evidence on this point and the absence of evidence corroborating Mr. Gupta's own statement regarding his political connections. With respect, I do not agree. The RAD did not cast into doubt the fact that Mr. Gupta told Mr. Khosla that he was a powerful and well-connected individual; it casted into doubt the truthfulness of Mr. Gupta's own allegation. It is this statement, made by a third party and not by Mr. Khosla himself, that was found to be unreliable because it was not corroborated by any other evidence.

[31] The presumption of truthfulness in the sworn evidence of a refugee claimant, as established in *Maldonado v Minister of Employment and Immigration*, [1980] 2 FC 302 (FCA) [*Maldonado*], finds no application here. In *Lunda v Canada (Citizenship and Immigration)*, 2020 FC 704 [*Lunda*] and *Fatoye v Canada (Citizenship and Immigration)*, 2020 FC 456 [*Fatoye*], the Court discussed the scope and limits of the *Maldonado* presumption of truthfulness in refugee claims (*Lunda* at paras 29–31; *Fatoye* at paras 35–37). *Maldonado* simply establishes the principle that "[w]hen an applicant swears to the truth of certain allegations, this creates a presumption that those allegations are true unless there be reason to doubt their truthfulness" [emphasis added] (*Maldonado* at para 5). This reservation is important because it means that the presumption no longer exists when there are grounds to doubt the veracity of the allegations made in a refugee protection claim.

[32] The reason underlying the presumption of truthfulness in *Maldonado* is that claimants who have experienced certain types of emergency situations cannot reasonably be expected to always have documents or other evidence to support their claims. These circumstances may include passage through refugee camps, war-torn country situations, discrimination, or events in which claimants have only a very short period of time to escape from their agents of persecution and subsequently cannot access documents or other evidence from Canada.

[33] Where corroborative evidence should reasonably be available to establish the essential elements of a claim for refugee protection and there is no reasonable explanation for its absence, the administrative decision maker may make an adverse credibility finding based on the claimant's lack of effort to obtain such evidence (*Ismaili v Canada (Citizenship and Immigration)*, 2014 FC 84 at paras 33, 35). The *Maldonado* presumption implies that requiring

objective corroborative evidence to support the statements coming from the personal knowledge of an applicant is generally unwarranted (*Luo v Canada (Citizenship and Immigration*), 2019 FC 823 at para 19). However, this presumption is rebuttable in several situations, such as where the evidence on the record is inconsistent with a claimant's sworn testimony (*Lunda* at para 29), where there are grounds to find that the claimant's testimony lacks credibility (*He v Canada (Citizenship and Immigration*), 2019 FC 2 at para 22), or where the decision maker is not satisfied with a claimant's explanations for the inconsistencies in the evidence (*Lin v Canada (Citizenship and Immigration)*, 2010 FC 183 at para 19). Another exception is where the evidence comes from the testimony of a third party (as is the case here for Mr. Gupta), and not from the testimony of a refugee claimant.

[34] Furthermore, this Court has noted that, where a lack of documentary evidence is central to a claim, it is not unreasonable for the RAD to expect that the applicant submit corroborating evidence (*Rizwan v Canada (Citizenship and Immigration)*, 2017 FC 456 at para 11).

[35] Here, the RAD reasonably concluded that there was insufficient information or evidence in the record — apart from Mr. Gupta's own self-serving statement — to demonstrate that Mr. Gupta would have the capacity or motivation to find the Khosla family. In other words, the Khosla family simply failed to fulfil their evidentiary burden to demonstrate Mr. Gupta's capacity to find them.

(2) No motivation or means for the Haryana police

[36] Turning to the ability of the Haryana police to find the Khosla family, I am satisfied that it was reasonable for the RAD to find it unlikely that the police would have a strong motivation to find Mr. Khosla given they did not formally lay any charges against him. As such, I disagree with the position advanced by the Khosla family that a lack of official charges could nonetheless be reflective of a likely and continued motivation of the Haryana police in finding them.

[37] According to the undisputed evidence, Mr. Khosla was not charged with any crimes nor was he added to any police records after his arrest. This led the RAD to infer that, on a balance of probabilities, he would not be flagged in India's tenant verification system. To arrive at this conclusion, the RAD relied on the NDP materials indicating that state police do not generally have the means to locate criminals outside their own state, barring exceptional circumstances that warrant a significant investment of time and resources. This is not the situation for the Khosla family, who were seemingly targeted for financial purposes by corrupt local officers.

[38] In her written and oral submissions, counsel for the Khosla family skillfully identified other extracts in the NDP, notably Item 10.13, which, she says, were not specifically mentioned by the RAD in the Decision. These included references to the rarity of interstate migration in India or the complete list of documents used to lead to an entry in the CCTNS. At the hearing before the Court, counsel for the Khosla family highlighted a number of passages from the NDP, and submitted that the RAD did a selective reading and failed to address contradictory documentation in the NDP, thus rendering the decision unreasonable. The Khosla family further argued that the RAD erroneously concluded that they could not be tracked by the Haryana

police, despite the fact that they took Mr. Khosla's fingerprints and picture, and forced him to sign blank papers.

[39] With respect, I am not convinced by these arguments.

[40] In reaching its conclusion, the RAD was responsive to the NDP and made multiple findings regarding India's tenant verification system and the CCTNS. For example, the RAD assessed the NDP and concluded that in light of the population of Kolkata, the Indian urbanization rate, a lack of police manpower, inadequate and outdated cyber infrastructure, and limited information on tenants, the Kolkata police do not have the means to do thorough checks on each tenant verification and likely lack the resources to enforce the verification at all. Furthermore, the RAD conducted a thorough analysis of how and what information is fed into the CCTNS by local police forces. The RAD further determined that based on the information in the NDP, individuals are entered in the CCTNS when they receive a FIR, when they get a criminal record, or when an arrest or court surrender form is issued against them. In the case of Mr. Khosla, there was no evidence of any formal charges, FIRs, alerts, summons, or arrest warrants. Since none of these situations applied to Mr. Khosla, the RAD concluded that it was unlikely that Mr. Khosla's information would be in the system.

[41] I also note that, based on the evidence on the record, Mr. Khosla did not have the profile of a Khalistan militant.

[42] Such administrative fact-findings command a high degree of deference (*Canada (Citizenship and Immigration) v Khosa*, 2009 SCC 12 at paras 46, 59–60). The RAD and the

RPD are owed an important degree of judicial deference regarding their factual conclusions, and I am not persuaded that the Khosla family have demonstrated any reviewable error by the RAD on this matter. The RAD did not fail to address the documentary evidence with respect to Mr. Khosla's arrest and it relied on this evidence to conclude that the specific context of Mr. Khosla's arrest could reasonably lead it to infer that he will not appear in either the tenant verification system or the CCTNS.

[43] I pause to underline that the issue before the Court is not whether the interpretations proposed by the Khosla family might be defendable, acceptable, or reasonable. Rather, the Court has to look at this issue in respect of the interpretation made by the RAD. The fact that there may be other reasonable interpretations of the facts does not, in and of itself, mean that the RAD's interpretation was unreasonable. Doing so would amount to indirectly applying the correctness standard, which *Vavilov* expressly instructed reviewing courts not to do (*Khelili v Canada (Citizenship and Immigration)*, 2023 FC 64 at para 26).

[44] The RAD's findings are also consistent with the jurisprudence. Indeed, in similar cases, the Court concluded "the Applicant's argument that the Haryana police took his fingerprints, photos and signatures on blank photos, with the result that he may figure in a police database is not persuasive and does not undermine the RAD's factual finding" (*Singh v Canada (Public Safety and Emergency Preparedness)*, 2022 FC 188 at para 23).

[45] There is a strong presumption that a decision maker has weighed and considered all the evidence, unless the contrary is established (*Kanagendren v Canada (Citizenship and Immigration)*, 2015 FCA 86 at para 36; *Florea v Canada (Minister of Employment and*

Immigration), [1993] FCJ no 598 (FCA) at para 1). Moreover, failure to mention a particular piece of evidence does not mean it has been ignored or discounted (*Newfoundland and Labrador Nurses' Union v Newfoundland and Labrador (Treasury Board)*, 2011 SCC 62 at para 16), and decision makers are not required to refer to all of the evidence that supports their conclusions. It is only when the decision maker is silent on evidence that clearly supports a contrary conclusion that the Court may intervene and infer that the decision maker overlooked the contradictory evidence in making his or her finding of fact (*Ozdemir v Canada (Minister of Citizenship and Immigration)*, 2001 FCA 331 at paras 9–10; *Cepeda-Gutierrez v Canada (Minister of Citizenship and Immigration)*, [1998] FCJ No 1425 (QL) [*Cepeda-Gutierrez*] at paras 16–17). However, *Cepeda-Gutierrez* does not support the proposition that the mere failure to refer to important evidence that runs contrary to a decision maker's conclusion automatically renders the decision unreasonable and causes it to be set aside. On the contrary, *Cepeda-Gutierrez* states that only when the evidence omitted is critical and squarely contradicts the decision maker's conclusion can the reviewing court infer that the decision maker failed to take into account the evidence before him or her (*Valencia* at para 18). I am not convinced that this is the situation here, as the Khosla family have not referred to any specific compelling evidence to that effect.

[46] As pointed out by the Minister, the whole tracking theory advanced by the Khosla family collapses because of several missing pieces in the chain of events that would allegedly allow their agents of persecution to trace and locate them in Kolkata. More specifically, there is no evidence supporting the assertion that Mr. Khosla is or could be perceived as a Khalistan militant, or that his name and information could have found its way into the tenant verification system or the CCTNS.

[47] As such, the RAD's conclusions surrounding the unlikelihood that Mr. Khosla will appear in India's CCTNS or tenant verification system are responsive to the documentary evidence and are transparent, intelligible, and internally coherent (*Vavilov* at paras 86, 99). It reasonably flows from these conclusions that it is unlikely that the Haryana police would have the capacity to locate the Khosla family in the proposed IFA.

[48] Having considered the NDP sources that the parties have referred me to, I am not persuaded that the RAD failed to address or consider contradictory documentation in the NDP such that the RAD's decision becomes unreasonable. I agree with the Minister that the RAD was entitled to prefer documentary evidence that was more detailed or more precise than the excerpts relied upon by the Khosla family. It is not for this Court, absent exceptional circumstances, to reweigh or reassess the evidence considered by the decision maker (*Vavilov* at para 125). In sum, I see no error that warrants this Court's intervention (*Singh v Canada (Citizenship and Immigration)*, 2023 FC 1151 at paras 10–12).

(3) No tracing through family members

[49] The Khosla family finally argue that it was speculative for the RAD to conclude that their extended family members still living in India had not told the Haryana police about their location, because the police has kept asking about the whereabouts of Mr. Khosla and his immediate family since they left for Canada. The Khosla family submit that the RAD unreasonably concluded that there was no serious possibility that the police would track them through members of their extended family still living in Haryana, India. Relying notably on this Court's decisions in *Ali v Canada (Citizenship and Immigration)*, 2020 FC 93 [*Ali*] at paragraphs

49–50, *AB v Canada (Citizenship and Immigration)*, 2020 FC 915 [*AB*] at paragraphs 20–24, and *Zamora Huerta v Canada (Citizenship and Immigration)*, 2008 FC 586 [*Zamora Huerta*] at paragraph 29, they claim that it is unreasonable to expect family members to place their own lives in danger by having to deny knowledge of an applicant's whereabouts or by deliberately misleading the authorities.

[50] I agree with the Minister that those three cases can be distinguished from the present matter. In *Ali*, *AB*, and *Zamora Huerta*, there were dire and serious threats of harm and violence made against the family members themselves. There was evidence that the applicants' relatives would themselves be in danger if they lied to their persecutors about the applicants' whereabouts; there was also evidence that the persecutors had the capacity and willingness to pursue the applicants in their new locations based on the acquired information.

[51] There is no such evidence here. The only threats of violence were against Mr. Khosla and his immediate family, not against their extended family members who remain in the state of Haryana. Furthermore, these threats of violence only occurred in the context of the police's initial enquiries into Mr. Khosla's whereabouts, not the subsequent enquiries. Moreover, there was no evidence of any capacity of the Haryana police to locate the Khosla family outside of the state of Haryana. The Khosla family argued that it was speculative for the RAD to conclude that family members did not divulge their location. But this is not the issue. Here, there is just no evidence linking the local approaches made to the family members to any ability to find the Khosla family in the IFA location.

[52] True, both the RPD and the RAD accepted that the Haryana police are still searching for the Khosla family to this day and continue to visit their extended family's and neighbours' homes. However, this interest remains limited to the Haryana state and to the region where the Khosla family comes from. As mentioned above, the RAD found that there was insufficient evidence demonstrating that Mr. Khosla's name would be in any databases and that the Haryana police would have any motivation to track down the Khosla family in the proposed IFA. The evidence further demonstrates that the Haryana police does not seriously consider Mr. Khosla as a militant since he was released upon the payment of a bribe, and Mr. Khosla was not charged with any crime.

[53] As stated by the RAD, the fact that the Haryana police is willing to locate the Khosla family within their own village or region, and make enquiries with their family members in their region, is insufficient to demonstrate that the police would be motivated and capable to locate them outside of the state of Haryana, which is what the Khosla family had to demonstrate to meet their burden under the IFA test (*Singh v Canada (Citizenship and Immigration)*, 2023 FC 1211 at paras 24, 30–31).

[54] In other words, the RAD was responsive to the Khosla family's concern that the Haryana police could learn their location by interrogating their extended family. However, based on the evidence before it, the RAD determined that, given the police's repeated questions about the Khosla family's whereabouts, it was reasonable to infer that their family had not revealed their location thus far and would not do so in future. The RAD subsequently concluded that, on a balance of probabilities, the Khosla family failed to demonstrate how the police in their home region would be able to locate them in the proposed IFA through their family members.

[55] The Khosla family's arguments as to the means and motivations of the agents of persecution amount, in my view, to an impermissible request to reweigh the evidence considered by the RAD (*Vavlov* at para 125). The RAD's findings on this point are essentially factual in nature and are founded on its appreciation of the objective evidence and of the Khosla family's particular situation. It is up to the RAD to determine what evidence it considers most persuasive, and the Court's role is not to reassess the evidence or substitute its own assessment (*Arora v Canada (Citizenship and Immigration)*, 2021 FC 1270 at para 26). The exercise of emphasizing different parts of the NDP or expressing disagreement with the RAD is an insufficient justification for judicial review.

IV. Conclusion

[56] For the reasons set forth above, this application for judicial review is dismissed. I am satisfied that the RAD reasonably considered the evidence in concluding that the Khosla family had a viable IFA in Kolkata. Numerous factors have led the RAD to conclude that Mr. Gupta and the Haryana police do not have the motivation and means to track down the Khosla family in the proposed IFA. As the Khosla family submitted no other possible risk they could face in Kolkata, it was reasonable for the RAD to conclude that it is a valid IFA for them. There are no grounds for the Court to intervene.

[57] No question for certification was proposed, and I agree that none arises.

JUDGMENT in IMM-11792-22

THIS COURT'S JUDGMENT is that:

1. This application for judicial review is dismissed, without costs.

2. There is no question of general importance to be certified.

"Denis Gascon"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	IMM-11792-22
STYLE OF CAUSE:	KHOSLA ET AL v THE MINISTER OF CITIZENSHIP AND IMMIGRATION
PLACE OF HEARING:	MONTRÉAL, QUEBEC
DATE OF HEARING:	NOVEMBER 2, 2023
JUDGMENT AND REASONS:	GASCON J.
DATED:	NOVEMBER 24, 2023

APPEARANCES:

Nilufar Sadeghi	FOR THE APPLICANTS
Mathieu Laliberté	FOR THE RESPONDENT

SOLICITORS OF RECORD:

Allen & Associates Barrister and Solicitor Montréal, Quebec	FOR THE APPLICANTS
Attorney General of Canada Montréal, Quebec	FOR THE RESPONDENT