

Federal Court



Cour fédérale

Date: 20250905

Docket: IMM-12185-24

Citation: 2025 FC 1470

Toronto, Ontario, September 5, 2025

PRESENT: The Honourable Mr. Justice A. Grant

BETWEEN:

GANAPATHY RAJAMANICKAM

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

I. OVERVIEW

[1] For the following brief reasons, this application for judicial review will be granted.

II. BACKGROUND

A. *Facts*

[2] Mr. Rajamanickam is a citizen of India. Prior to coming to Canada, he supported the All-India Anna Dravida Munnetra Kalagam political party [AIADMK]. Mr. Rajamanickam claims that he distanced himself from the AIADMK after he had taken out loans to support the party (which were not reimbursed), and after he unsuccessfully bid to become a regional leader. He also grew disillusioned with the party as it had become aligned with the Bhartiya Janata Party [BJP], which he alleges is a Hindu extremist party.

[3] After this falling out, the Applicant came to support a rival party, the Dravida Munnetra Kazhagam [DMK]. The AIADMK then targeted the Applicant, and their aggression intensified after the DMK won an election in April 2021. The Applicant and his family were attacked, and a friend who the Applicant had encouraged to leave AIADMK was murdered.

[4] The Applicant initiated a claim for refugee protection in 2022. The Refugee Protection Division [RPD] of the Immigration and Refugee Board rejected his claim, based on its conclusion that the Applicant had a viable internal flight alternative [IFA] in Bengaluru. The Refugee Appeal Division [RAD] agreed that the Applicant could relocate to Bengaluru and confirmed the RPD's decision.

III. ANALYSIS

A. *Preliminary Issue-New arguments raised in Applicant's Further Memorandum of Argument*

[5] The Respondent points out that several of the Applicant's arguments were not raised in his original Memorandum of Argument, but only after leave was granted in this matter, in his Further Memorandum of Argument. I will not consider this objection, as I have concluded that the determinative issue in this matter was the main issue raised by the Applicant at the leave stage.

B. *The RAD improperly characterized the Applicant's evidence*

[6] In an otherwise thorough decision, I have concluded that the RAD committed a reviewable error in assessing evidence of threats that had been made against the Applicant's wife. There is no dispute that this issue is to be assessed on the reasonableness standard.

[7] The evidence before the RAD, contained in a letter from the Applicant's wife, was that, in addition to kidnapping, beating, and instigating the arrest of the Applicant, AIADMK members repeatedly went to the Applicant's house and threatened his wife and children. The evidence from the Applicant's wife was also that in March 2021 AIADMK members "vandalized our house and beat my husband and us and damaged the furniture in our house" [emphasis added]. Finally, the Applicant's wife indicated that after the Applicant had left India, AIADMK members "came several times and threatened my family, so I moved with my children to my parent's house."

[8] It is important to note that the RAD did not question the Applicant's credibility. As such, his statements and the documentary evidence provided in support of his claim are taken to be both credible and accurate. On the question of the AIADMK's interactions with the Applicant's wife and children, the RAD was aware that these interactions were relevant to the IFA analysis. Citing *Ali v. Canada (Citizenship and Immigration)*, 2020 FC 93 [*Ali*] and *A.B. v. Canada (Citizenship and Immigration)*, 2020 FC 915, the RAD acknowledged that "being unable to share your whereabouts with your family or friends is tantamount to requiring a claimant to go into hiding, which the Court has found to be unreasonable."

[9] However, the RAD also noted that the Court's findings in *Ali* were fact specific and could not be generalized to every IFA situation. As an example, the RAD cited the decision in *Aulakh v. Canada (Citizenship and Immigration)*, 2023 FC 1176 [*Aulakh*], in which this Court distinguished *Ali* because the Applicant's family had only been subject to "alleged enquiries" by the police and unknown men as to the Applicant's whereabouts. In other words, the RAD understood there to be a meaningful distinction between the use of threats to find an individual through family members, and the mere making of enquiries to family members to elicit information as to the individual's location.

[10] This is a reasonable summary of the jurisprudence of this Court, so far as it goes. The question for the Court, however, is whether there was a reasonable basis on which the RAD could conclude that the case before it resembled an "*Aulakh* situation" rather than an "*Ali* situation." It is on this question that I find the RAD fell into error.

[11] As noted above, the evidence provided by the Applicant's wife was *not* that the agents of harm in this case merely "made enquiries" as to the whereabouts of the Applicant, but that they repeatedly went to the Applicant's house and threatened her and the children, such that they left their family home and moved in with her parents. The RAD also cited the Applicant's oral testimony before the RPD, in which he stated that while the agents of harm did not physically harm his wife, they did threaten her in a hostile voice.

[12] Given the above, there is a problem in the chain of analysis that led the RAD to conclude that the interactions between the Applicant's family members and the agents of harm merely amounted to "enquiries" as to the Applicant's whereabouts. In my review of the Record, these interactions, which the RAD did not question, are explicitly described as threatening and as leading the Applicant's wife to abandon their home. In this context, I do not find that the RAD had a reasonable evidentiary foundation on which to conclude that the Applicant's situation was analogous to that described by this Court in *Aulakh*.

[13] Because this finding was a central one in the RAD's analysis, I find that it warrants the granting of this application for judicial review. Before concluding, however, I will raise a related issue that neither the RPD, nor the RAD appear to have considered, and that may be relevant to the redetermination of this matter. The issue is whether the threatened family members in this case – the Applicant's wife and children – would likely relocate to Bengaluru with the Applicant, thus: 1) removing the threats that they faced at home; and 2) eliminating the possibility that the Applicant could be found through his immediate family members. Clearly, had these immediate family members come to Canada with the Applicant, this would have been an important consideration in their joined claims, i.e., whether the nuclear family, as a whole, could relocate to

Bengaluru. On the surface, I see no reason why this would become an irrelevant consideration merely because the Applicant's wife and children have remained in India. In raising this issue, I do not suggest that it will be determinative of the redetermination of this matter, only that it may be a relevant line of inquiry.

IV. CONCLUSION and CERTIFIED QUESTION

[14] For the above reasons, this application for judicial review is granted.

[15] The Applicant has submitted two questions for certification related to whether the RAD incorporated the correct legal and evidentiary standards into its IFA analysis. However, as my conclusions do not turn on this issue, the proposed questions would not be determinative of the appeal, and they should therefore not be certified.

JUDGMENT in IMM-12185-24

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is granted.
2. The matter is remitted to a different decision-maker for reconsideration.
3. No question is certified for appeal.
4. There is no order as to costs.

"Angus G. Grant"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-12185-24

STYLE OF CAUSE: GANAPATHY RAJAMANICKAM v THE MINISTER
OF CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: TORONTO, ONTARIO

DATE OF HEARING: JULY 16, 2025

JUDGMENT AND REASONS: GRANT J.

DATED: SEPTEMBER 5, 2025

APPEARANCES:

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Margherita Braccio	FOR THE RESPONDENT

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