

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NASSAU**

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COUNTY OF NASSAU,

Plaintiff,

-against-

MICHELE M. WOODARD, J.S.C.
TRIAL/IAS Part 18
Index No. 017664/05
Motion Seq. No.: 01

HEMAL V. PATEL, MITABEN V. PATEL,
and NISSAN MOTOR ACCEPTANCE,

DECISION & ORDER

Defendants.
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Papers read on this Motion:

Defendant Nissan Motor Acceptance Corp.'s Notice of Motion	01
Defendant Nissan's Affidavit in Support of Motion	xx
County of Nassau's Affirmation in Support	xx

NISSAN MOTOR ACCEPTANCE CORP., hereinafter referred to as "NISSAN", seeks a Declaratory Judgement that it has a superior right of possession to an automobile bearing Vehicle Identification Number 1N4AL11E83C278276. The motion was served on May 17, 2007, it is unopposed by the defendant HEMAL PATEL, and was affirmed by the plaintiff on January 31, 2007. Defendant HEMAL PATEL executed a Motor Vehicle Retail Installment Contract with the Lender for purposes of financing the automobile. Pursuant to the contract, the defendant agreed to comply with various terms and conditions relating to the use of the vehicle in a safe manner. The contract specifically states the defendant's right to possess the vehicle is conditioned on the defendant complying with the contract terms.

The plaintiff COUNTY OF NASSAU, hereinafter referred to as "NASSAU COUNTY", commenced a forfeiture action based on the defendant HEMAL PATEL's arrest for operating the vehicle while intoxicated/impaired.

The illegal use of the vehicle is a default pursuant to the terms of the contract between the defendant HEMAL PATEL and NISSAN. Upon a default under the contract, the Lender is entitled to repossession of the vehicle. The defendant's right to possess the vehicle is subordinate to the Lender's right to possession of the vehicle.

NASSAU COUNTY has submitted an affirmation indicating that they are in support of NISSAN's Motion to facilitate the return of the vehicle.

There being no opposition, the defendant's motion for Summary Judgment is **GRANTED**.

Defendant NISSAN MOTOR ACCEPTANCE CORP. as the creditor of the subject vehicle is an "innocent owner" within the definition of the Nassau Administrative Code §8-7.0(g)(4)(f) and is therefore entitled to possession of the vehicle by the terms of its contract.

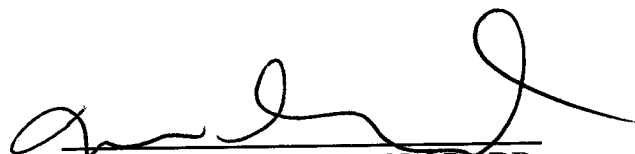
Based upon the foregoing, it is hereby **DECLARED** and **ADJUDGED** that, NASSAU COUNTY may release the subject vehicle, a 2003 Nissan Altima bearing the Vehicle Identification Number 1N4AL11E83C278276 to NISSAN as an innocent lienholder. NISSAN's rights in the subject vehicle are superior to the rights of the borrower in said vehicle and NISSAN may possess and dispose of the vehicle free of any Possessory Claim that may be made by defendant HEMAL PATEL.

In light of the above ruling, plaintiff's Complaint is **DISMISSED** and it is hereby **ORDERED** that the defendant NISSAN may not re-sell, re-lease, or re-finance the subject vehicle to the defendant **HEMAL PATEL**.

This constitutes the **DECISION** and **ORDER** of this Court.

DATED: October 3, 2007
Mineola, N.Y.

ENTER:



HON. MICHELE M. WOODARD
J.S.C.
XXX

ENTERED

OCT 09 2007

NASSAU COUNTY
COUNTY CLERK'S OFFICE