

ArcelorMittal ordered to fund venture

Global steel maker 'deliberately withheld' cash from project

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A RIFT between joint-venture partners the New York-listed ArcelorMittal and South African empowered company Kalahari Resources was laid bare in a judgment yesterday, with the court ordering the world's largest steel maker to honour its commitments.

The South Gauteng High Court ordered ArcelorMittal to pay the joint-venture entity, Kalagadi Manganese, an amount of R241,3m within 10 days and to honour its commitments under shareholder agreements in the venture.

Judge Phillip Coppin made scathing comments in his judgment about ArcelorMittal, rejecting the global steel producer's application for Kalagadi to be placed in a business-rescue process because it had run out of money.

"Instead, it deliberately withheld funding, seemingly knowing that Kalagadi would, as a result, experience financial distress which would render it vulnerable to attack by disgruntled creditors," he said.

"That by balancing its fate of either being liquidated or rescued, there would be an opting of the latter, which would enable Arcelor to achieve possibly more than what it could have achieved by an order for specific performance," Judge Coppin said.

ArcelorMittal, the parent company of ArcelorMittal SA, owns half of Kalagadi Manganese, which is bringing a manganese mine and sintering plant into production this year. Kalahari owns 40% of Kalagadi and the Industrial Development Corporation the remaining 10%.

Kalagadi is to build a smelter at Coega to produce 320 000 tons of ferromanganese from 2014.



Daphne Mashile-Nkosi

Kalahari Resources, headed by Daphne Mashile-Nkosi, took ArcelorMittal to court to demand it pay its share of the project after Kalagadi ran out of money and banks declined to advance the project debt, because ArcelorMittal declined to put up security.

Yesterday's court ruling cleared the way for Kalagadi to finalise and sign term sheets with a group of banks and begin drawing down on R8bn needed to bring the project to conclusion, Ms Mashile-Nkosi said. "The worst is behind us."

ArcelorMittal said it was reviewing the judgment and considering its options.

"While ArcelorMittal respects the court's ruling, it is nevertheless disappointed, as this does not resolve the real issues, namely, that certain material obligations under the Kalagadi Manganese shareholders agreement have been breached, and that there remain serious shortcomings in terms of corporate governance within Kalagadi Manganese."

Under the shareholder agreement, if Kalagadi was unable to fund the project and third-party debt could not be raised, it fell to its shareholders to provide development capital pro rata.

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