

Court orders ArcelorMittal to pay its R241m obligation to Kalagadi

Dineo Faku

KALAGADI Manganese won the second round of its legal battle with ArcelorMittal, which was ordered by the South Gauteng High Court yesterday to meet its R241.3 million shareholder's obligation within 10 days.

ArcelorMittal, the biggest steel maker globally, is a 50 percent shareholder in Kalagadi, Kalahari Resources owns 40 percent and the Industrial Development Corporation (IDC) owns 10 percent.

Judge Boyce Mbah was critical of ArcelorMittal, saying that despite the fact that the parties had entered into mediation, ArcelorMittal apparently did very little, if anything, to provide for the funding needs of Kalagadi.

"[ArcelorMittal] did not institute arbitration proceedings to obtain specific performance of the alleged breaches it was raising as reasons why funds were not being processed into Kalagadi. 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."

By balancing its fate of either being liquidated or "rescued", there would be an opting of the latter, which ArcelorMittal would be able to achieve by an order for specific performance. The consequence of business rescue is that the business rescue practitioner takes over the full management control of the company.

Kalagadi said in its statement that Judge Mbah ruled that ArcelorMittal had to pay R241.3m to Kalagadi as soon as it received the necessary security tendered by Kalahari Resources, its main partner in Kalagadi Manganese, which was developing a manganese sinter plant with capacity of 3 million tons a year at Hotazel in the Northern Cape province.

It deliberately withheld funding... knowing Kalagadi would experience financial distress.

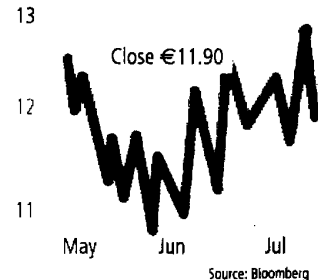
"Today's ruling effectively orders ArcelorMittal to meet the provisions and requirements of the shareholders' agreement to make further payments required for the implementation of the project pro rata to their shareholding while it awaits leave to appeal a ruling handed down by Judge Phillip Coppin in the South Gauteng High Court on June 26."

ArcelorMittal made an application for leave to appeal to suspend any payment obligation after the court judgement on June 26.

ArcelorMittal spokesman Julian Gwillim said because this payment would be made prior to the leave for appeal application being heard on August 21, the court had ruled that the

ArcelorMittal

Share price, euro May - Aug 1



execution was subject to security to be provided by Kalahari Resources to ArcelorMittal, which included a pledge of all Kalahari Resources' shareholding and loan account in Kalagadi Manganese, in the event that ArcelorMittal was successful in the appeal process.

"Should the leave to appeal be granted, ArcelorMittal expects the appeal process to start shortly thereafter," Gwillim said.

ArcelorMittal, which subscribed for 50 percent of Kalagadi for a consideration of \$430m (R3.5 billion), also injected R100m last year.

Yesterday's decision of the South Gauteng High Court was an execution of the ruling of June 26 in which ArcelorMittal was ordered to pay R241.3m towards the project. ArcelorMittal applied for leave to appeal the decision and Kalagadi approached the courts to compel ArcelorMittal to adhere to the judgment.