

Mining giant wins second round of legal battle

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KALAGADI Manganese won the second round of its legal battle with ArcelorMittal, which was ordered by the South Gauteng High Court 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 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 control of the company.