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**REPUBLIC OF SOUTH AFRICA
IN THE HIGH COURT OF SOUTH AFRICA
(GAUTENG DIVISION, PRETORIA)**

CASE NO: 032659/2023

(1) REPORTABLE: NO

(2) OF INTEREST TO OTHER JUDGES: NO

(3) REVISED:

DATE: 14/06/2024 & 26/02/2024

SIGNATURE

In the matter between:

ARCELORMITTAL SOUTH AFRICA LTD

Applicant

and

NATANZ STEEL MELTING PJS

1st Respondent

ALLEN TARGHI TAVAKOLI

2nd Respondent

DLX PROPERTIES (PTY) LTD

3rd Respondent

JUDGMENT

(The matter was heard in open court but judgment was handed down electronically by uploading the judgment onto the electronic file of the matter on CaseLines and forwarding the judgment to the representatives of the parties by the uploading thereof onto CaseLines. The date of the judgment is deemed to be the date of uploading thereof onto CaseLines)

BEFORE: HOLLAND-MUTER J:

POSTEA: CLARRIFICATION OF ORDER GRANTED:

[A] After the judgment was delivered on 20 June 2024, it was brought to my attention that there may be some uncertainty interpreting prayer 2 of the granted order. As it was, it may create some confusion as to when at the last the respondents are to vacate the premises of the applicant. In my view it was all the parties' intention that the premises had to be vacated on or before 30 November 2024, irrespective whether the pending matter was finalised.

[B] To prevent any confusion, and taking into consideration what was argued before the court, I clarify prayer 2 of the granted order as indicated by the underlined words inserted in the order. Rule 42 of the Uniform Rules of Court empowers the court to clarify or amend an order *mero motu* without any formal application by any party.

CLARIFICATION DONE ON 26 JUNE 2024

HOLLAND-MUTER J:

JUDGMENT:

[1]The matter was heard on 7 June 2024 and the representatives, after the court made a *prima facie* suggestion that an eviction order should be granted subject to the finalization of the main action in **case no 89366/2016** between the respondents, were in agreement that an eviction order be granted subject to certain provisos.

[2] The representatives were in agreement that the dispute between the defendants had no bearing on the applicant, and that the applicant as the rightful owner of the premises, was entitled to have the occupiers ejected. The parties differed on the detail of when and how the ejectment should take place.

[3] In view of the factual situation and the enormous size of the equipment on the premises, it would take some time to remove the equipment. The seven (7) days as

moved for by the applicant in its Notice of Motion, for the respondents to vacate the premises, considering the size of the equipment, would not be possible at all. The matter has also been going on for some time that immediate or speedy removal is not required.

[4] The question of contractual penalties were raised but it was not part of the relief sought in this application and should not form part of any relief granted.

[5] I requested the representatives of the parties to submit proposed draft orders which will include what ought to be included in an order. I received proposals from the representatives and after considering it in conjunction with the evidence in the affidavits and submissions made during hearing, the following order would be just and fair under the circumstances.

ORDER:

1. The respondents are ordered to vacate the applicant's property at Pretoria Works [...], F[...] M[...] Road, Pretoria West Industrial, by dismantling and clearing the steel melting plant, comprising of the metallurgical facilities, cranes and buildings ("*equipment*") from the property/premises;

2. The aforesaid order is suspended pending the final determination of the action in case no **89366/2016**. The First Respondent shall within five (5) days from the order apply for a preferential trial date and should such date not have been allocated for hearing of the matter on or before 30 November 2024, and should the pending action under case no 89366/2016 not be finalised before 30 November 2024, prayer 1 becomes operational;

3. In the event that the Respondents fail to vacate the property as directed in prayer 1 and 2 above (i e by 30 November 2024), the applicant, acting under the supervision of and with the assistance as may be required from the Sheriff and/or his/her deputy for the district, is authorised to forthwith give effect to the eviction order;

4. The Respondents are ordered to pay the costs of the Applicant for the application on scale C, jointly and severally, the one paying the others to be absolved. Should the Respondents have failed to vacate the property by 30 November 2024 and the Applicant incurred costs to give effect to the eviction in terms of paragraph 3 above, such costs shall be included in the costs order above.

HOLLAND-MUTER J
Judge of the Pretoria High Court

Matter was heard in open court on 7 June 2024.

Judgment delivered and uploaded onto CaseLines on 20 June 2024

CLARIFICATION OF PRAYER 2 OF THE ORDER DONE ON 25 JUNE 2024.

26 June 2024

APPEARANCES:

Applicant: Adv A C BOTHA SC

First Respondent: Adv N C MARITZ

Second Respondent: Adv M JACOBS