

SHEPHALI

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
ARBITRATION PETITION NO. 890 OF 2013**

Horseshoe Entertainment & Hospitality Pvt Ltd & Ors	...Petitioners
<i>Versus</i>	
The Comedy Store Ltd	...Respondents

Mr Rahul Jain, *i/b RES Legal, for the Petitioners.*
Mr Dhiraj Mhetre, *a/w Ms S. Tewari, Zaiboa Thingna, i/b Khaitan
Legal Associates, for the Respondent.*

CORAM: G.S. PATEL, J
DATED: 18th January 2017

PC:-

1. The is a Petition under Section 9 of the Arbitration and Conciliation Act, 1996. It has been pending since 8th April 2013. The agreement in question is a Share Subscription and Shareholder Agreement at Exhibit "A". Clause 31 deals with governing law and arbitration.

2. There is no ad-interim order in this matter. Although there is an Arbitral Tribunal, one that entered on its reference in October 2013, even to this date the Petitioner has filed no statement of claim. Whether this was as a result of the reconstitution of the Arbitral Tribunal is of no concern.

3. This Petition cannot be kept pending. It completely defeats the purpose and statutory intent of Section 9, which is to grant emergent protective relief. There cannot be any surviving urgency.

4. The Petition is dismissed.

5. All contentions of the Petitioners are kept open. They may file a suitable application before the Arbitral Tribunal under Section 17 of the Act, provided of course the Tribunal permits this and further provided that there is a supporting statement of claim to begin with. I need only to observe that the Arbitral Tribunal is not bound to grant time to file a statement of claims.

(G. S. PATEL, J.)