

Order 26 of C.P.C

1. O-26 R-9: Further Local Investigation: The court is quite competent to direct for further local investigation for ascertaining the existence of path/road as well as the question of structure standing thereon. To ascertain the true position of the suit by the way of further local investigation will no way cause prejudice to any of the parties. | *21 BLC 11*
2. Rule -9: The measurement must be started from a fixed pillar not ascertain any fixed pillar, the starting of measurement from a certain place cannot be considered as a fair and genuine. | *23 BLT(HCD) 320*
3. Rule-9: The trial court without calling the advocate commission to depose him as witness, only his report without **deposition is not admitted as a evidence.** | *1 XP(AD) 114, 5 XP(AD) 192, 9 MLR(AD) 216*
4. Rule-9: **The defendant dispossessed the plaintiff** from suit land and defendant denied it- the dispute can be ascertained by the local investigation. | *1 XP 100*
5. Rule-9: Any objection against the commissioner report must be specially mentioned **why and what reasons the report** of the commissioner would liable to be rejected. | *1 XP 100*
6. Rule-9: The **party presents on the spot** with their advocates and surveyor to see the perfectness of the commission work and the commission **work was done jointly.** Subsequently the same party, raised any objection against the report cannot be sustained in law. | *1 XP 100*
7. Rule-9: The execution court **cannot go beyond the decree by allowing local investigation** to ascertain the suit land. | *3 XP(AD) 83*
8. Rule-9: The executing court has got ample jurisdiction to see whether the possession of the **land covered by the pre-empted kabalas** has been delivered or not taking a report from the advocate commissioner through local investigation. | *4 ALR(AD) 207*
9. Rule-10(2): The report of advocate commissioner **shall go into evidence even if the commissioner is not examined** in the court and that the evidential value of the report of the advocate commissioner may vary depending upon the facts and circumstances of the particular case. The Advocate commissioner report is not **sacrosanct but it is only piece of evidence which is to be considered along with other evidence.** The court may or may not rely on such evidence notwithstanding the fact that has been admitted in evidence. | *64 DLR(AD) 127*
10. Rule-14(2): Once the report of the commissioner dividing the suit land is accepted by the trial court on the on the basis of evidence on record, such record should not be interfered with the appeal **unless there is any mistake, resulting in miscarriage of justice.** | *58 DLR 81*
11. Rule-14(2): **Since the advocate commissioner did not disposed** before the trial court nor the court call him as a witness, his report was not admitted in evidence. In that state of the matter, the HCD was not justified in relying on the same and reversing the judgment of the trial court. | *60 DLR(AD) 39*
12. Rule-9: A court can order local investigation for the purpose of elucidating any matter in dispute, if it is deems such investigation necessary. | *41 DLR 234*
13. Rule-9: Any matter which can be **decided by evidence** cannot be subject-matter of local investigation. | *41 DLR 234*
14. Rule-9: Report of advocate commissioner when **not objected to at the time of trial** and when it was used in evidence **it cannot be subsequently challenge.** | *13 MLR(HC) 199*
15. Rule-9: Local investigation **may be allowed** even after **close of evidence** for effective adjudication of dispute. | *15 MLR(HC) 213*

16. Rule-9: When cannot be allowed: Unless warranted for the purpose of **removing ambiguity and uncertainty of the identify of the suit land** properly as contemplated under this rule, local investigation is not necessary. | **8 MLR(HC) 167**
17. Rule-9: Appointment of advocated commissioner for local investigation for **self same matter in subsequent suit is not permissible.** | **10 MLR(AD) 25**
18. Appointment of surveyor by executing court. | **10 MLR(AD) 187**
19. Rule-9: Report of Advocate commissioner alone **does not prove the case** of either party. **10 MLR(AD) 161**
20. Rule-10: Acceptance of advocate commissioner's report after local investigation | **10 BLD(AD) 3, AIR 1953 Pat 33**
21. Rule-14: Acceptance of report without giving opportunity to a party to file objection against the same and passing of the final decree on the basis of the same cannot be stand | **2 BLD(HCD) 114**
22. Rule-9: Possession is a question of fact and that has to prove producing evidence and that cannot be decided by holding local investigation. | **6 LNJ(AD) 104**
23. The suit plots mentioned in the plaint have been owned and possessed by the plaintiff as per kabala but the suit land are not the same according to said kabala.... . HCD directed to trial court to appoint a surveyor knowing advocate commissioner to demarcate and specify the suit plot. Just immediate started construction of boundary wall. | **2 XP I**
24. Police help during investigation by commissioner: A court has inherent power to grant police help during executing of the writ issued to the advocate commissioner for measuring the obstruction of passage and removal of the said obstruction. | **2 XP(FR) 8**

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