

**Order Below Exh. 17 in R.C.S. No. 233 of 2017**(Passed on this 25<sup>th</sup> day of Novmeber, 2025)**Vajnath Vrs. Dinesh.****CNR NO.MHLA050025652025**

**01]** The plaintiff has prayed for appointment of Court commissioner vide Order XXVI Rule 9 of the Civil Procedure Code, (For short C.P.C.).

**02]** The plaintiff has filed the present suit seeking declaration ownership over the suit land and permanent injunction restraining the defendant from the causing obstruction to his peaceful possession. By the present application, the plaintiff seeks appointment of court commissioner for local investigation. From the averments in the application, it is seen that the plaintiff wants the commissioner to verify the factual possession on the spot, possession over the suit land, alleged obstruction by defendant, and factual circumstances relating the suit property. The defendant failed to file his say.

**03]** The court has carefully perused the contents of the application. The plaintiff has not pleaded any disputes regarding identity of boundaries, encroachment, measurements or physical features of the suit land. The relief claimed is purely declaratory and prohibitory in nature.

**04]** Under order XXVI Rule 9 of the Code of Civil Procedure, local investigation may ordered only when such investigation is necessary elucidate any matter and can not be proved by the parties by leading evidence. It is well settled principle that a court commissioner can not be appointed to collect

evidence, fill lacunae, or prove the case of party.

**05]** Considering the above facts, the court finds that no boundary disputes, measurements disputes, or necessity of local investigation is made out. The plaintiff has failed to show how local investigation is essential for the decision of the suit. Therefore, application is misconceive, premature and filed only to collect evidences. Hence, in the result, I proceed to pass following order:-

**:-ORDER:-**

The application below (**Exh. 17**) is rejected.

(Dictated and pronounced in open Court).

**Place :-** Ahmedpur,

**Date :-** 25.11.2025.

**( R.D. Wabale )**

Joint Civil Judge Senior Division  
Ahmedpur.