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Republic of the Philippines
Third Judicial Region
REGIONAL TRIAL COURT
Branch 96
Dinalupihan, Bataan

JASH SHAINNEN K. PENAFLOR,
Petitioner,

-versus-

SP PROC. CASE NO. DH-439-18

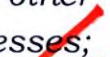
THE LOCAL CIVIL REGISTER OF
DINALUPIHAN, BATAAN,
PHILIPPINE STATISTICS
AUTHORITY (PSA), OFFICE OF
THE SOLICITOR GENERAL, and
DENNIS F. CANLAS,
Respondents.

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O R D E R

Petitioner Jash Shainnen K. Penaflor through her counsel Atty. Juvy Mell Malit, filed the instant Verified Petition on December 06, 2018 praying *“that after notice and hearing, judgment will be rendered by the Honorable Court as follows: (a) Ordering the “Second BC” of the Petitioner to be cancelled and maintaining the Petitioner’s “First BC”; (b) Correcting the entry in the “First BC” indicating that Petitioner’s biological parents were married on February 22, 1998 in Dinalupihan, Bataan and changing the same with words like Not Applicable, N/A, or words of similar import; (c) Granting the prayer of the Petitioner allowing that her name indicated in the “First BC” as Jash Shainnen Penaflor Canlas be changed to Jash Shainnen Kalaquian Penaflor or Jash Shainnen Penaflor.”*

The petitioner alleges: *“that petitioner is of legal age, single, Filipino with residence and postal address at No. 62, General Luna, Dinalupihan, Bataan; respondent Local Civil Registrar (LCR) of Dinalupihan, Bataan is holding office at the Municipal Hall of Dinalupihan, Bataan; respondent Philippine Statistics Authority (PSA) is holding office at Solicarel Bldg. I & II, Ramon Magsaysay Blvd., Sta Mesa, Manila; respondent Office of the Solicitor General (OSG) is holding office at No. 134 Amorsolo St., Legaspi Village, Makati City; and respondent Dennis Canlas (“Canlas” for brevity) is of legal age, Filipino and with residence and postal address at Mabini Extension, Dinalupihan, Bataan; parties may be served with summons and other legal processes of this Honorable Court at their respective addresses;*



the petitioner was born on January 15, 1999 at Jose C. Payumo Jr. Memorial Hospital in Dinalupihan, Bataan; petitioner is the biological daughter of Karen Kalaquian Penaflor Veloso (now married to Neiljseun C. Veloso) and respondent Dennis. The biological parents of the petitioner never got married. Because of this, the petitioner is considered an "illegitimate child"; unknown to Karen, respondent Dennis caused the registration of the birth ("First BC") of the petitioner with Registry Number 9900287 in which her surname was indicated as "Canlas" following the surname of her biological father. The first registration also indicated that the biological parents of the petitioner were married on February 22, 1998 in Dinalupihan, Bataan which is untrue; having no knowledge of the first registration, Karen caused the late registration ("Second BC") of the birth of the petitioner on September 4, 2000 with Registry Number 2000-1790 wherein the latter was named Jash Shainnen Kalaquian Penaflor following the maiden surname of her biological mother. This has been the name used by the petitioner in all her records and documents; as there are two Certificates of Live Birth registered under the name of the petitioner, what is being issued to the petitioner is the "First BC" whenever she applies for a copy of her Certificate of Live Birth with the PSA; a copy of the first registered Certificate of Live Birth of the petitioner is hereto attached as Annex "A" while the second registered Certificate of Live Birth of the petitioner is hereto attached as Annex "B". Meanwhile, copies of the CENOMAR of both the biological parents of the petitioner proving that they are not married to each other are hereto attached as Annexes "C" and "C-1" for Karen and Dennis, respectively; the rule provides that with respect to Certificates of Live Birth, the first registration shall take precedence over the second registration. Thus, there is a need to cancel the "Second BC" and maintain the "First BC" of the petitioner; however, the petitioner prays that the "First BC" be corrected insofar as the entry of the date of marriage of her biological parents as the two never actually entered into a contract of marriage; lastly, the petitioner prays that her name indicated in the "First BC" as Jash Shainnen Penaflor Canlas be changed to Jash Shainnen Kalaquian Penaflor or Jash Shainnen Penaflor; as it is the father (respondent Canlas) of petitioner who registered the birth of the latter, this presupposes the fact that he recognized his filiation with the petitioner. However, being an illegitimate child, the petitioner is not compelled to continue using the surname of her father. This is in accordance with the ruling of the Honorable Supreme Court in the case of *Grander vs Antonio* (GR No. 206248, February 18, 2014) which pronounced that Article 176 of the New Civil Code(sic) gives an illegitimate child the right to decide to use the surname of their father or not. It is not the father or the mother who is granted by law the right to dictate the surname of their illegitimate



children; the Supreme Court further stated that, on its face, Art. 176, as amended is free from ambiguity. And when there is no ambiguity, one must abide by its words. The use of the word “may” in the provision readily show that an acknowledged illegitimate child is under no compulsion to use the surname of his/her illegitimate father. The word “may” is permissive and operates to confer discretion upon the illegitimate children.”

WHEREFORE, finding the petition to be sufficient in form and substance, the same is hereby set for hearing on **March 12, 2019 at 9:00 o'clock in the morning** and all interested persons are hereby required to appear and show cause, if any they have, why the petition should not be granted.


Let copies of this Order be furnished the Office of the Local Civil Registrar General, Philippine Statistics Authority, the Local Civil Registrar of Dinalupihan, Bataan and Dennis Canlas.

The Sheriff of this court is hereby directed to post copies of this Order in the Bulletin Board of this court and the Office of the Clerk of Court (OCC)-RTC Dinalupihan, Bataan, at the Provincial Capitol of Bataan, Balanga City, Bataan, in the Municipal Hall of Dinalupihan, Bataan for three (3) consecutive weeks prior to the date of hearing.

Likewise, let copies of this Order be published, at the expense of the petitioner, in a newspaper of general circulation in the Philippines for three (3) consecutive weeks, the last publication of which should be at least one (1) week before the date of hearing.

SO ORDERED.

Dinalupihan, Bataan, December 11, 2018.


AMELITA CRUZ CORPUZ
Presiding Judge

Copy Furnished:

1. Jash Shainnen K. Penaflor
2. Atty. Juvy Mell Malit
3. OSG
4. OPP
5. PSA
6. LCR Dinalupihan
7. File Copy
8. File Copy