

Virgil C Chatham,

County Road Engineer, J. Hardin-

- Upon Petition.

Wherefore she prays that the petition be dismissed, and for

- Demurrer and Answer of Bettie J Hardin.-

The Defendants Bettie J. Hardin, and John B. Thompson, Trustee for Bettie J. Hardin, answering Plaintiff's petition, say that this Court has no jurisdiction to try this action; that there is now pending in the Mercer Circuit Court, an action wherein the Plaintiff ~~xx~~ and Mercer County are Defendants, and in which action the Defendant seeks to enjoin the Plaintiff from opening the culvert mentioned in the petition and from leaving the same open and turning the water in upon the Defendant's land, and seeks damages for the wrongful acts of the Plff in opening said culvert and turning the said water on Plff's land, and that all rights of the Plaintiff to open said culvert are now in litigation in said action, and that until said action is settled or dismissed, this Court has no jurisdiction to hear or to determine any question pertaining thereto.

Paragraph 2;

The Deft further answering and still relying upon the first paragraph of this answer and lack of jurisdiction in this Court to try the questions involved in said petition, says that the Plff Virgil C Chatham, as County Road engineer, had no right or authority to institute this proceeding.

Wherefore ~~x~~ she prays that the same be dismissed and for all proper relief.

Paragraph 3;

The Deft still relying upon each of the foregoing paragraphs and without waiving any rights thereunder, for further answer to Plaintiff's petition says- that she denies that it was necessary for the proper grading the turnpike to make a culvert bear the residence