

Virgil C Chatham, culvert or drainage of said pipe is not a ditch open
the premises County Road Engineer, Hardin.
- Upon Petition.
Wherefore she prays that the petition be dismissed, and for
her costs 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 ~~is~~
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 Plaintiff in opening said culvert and turning the said water on Plaintiff'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 set-
tled or dismissed, this Court has no jurisdiction to hear or to deter-
mine 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 ~~she~~ 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